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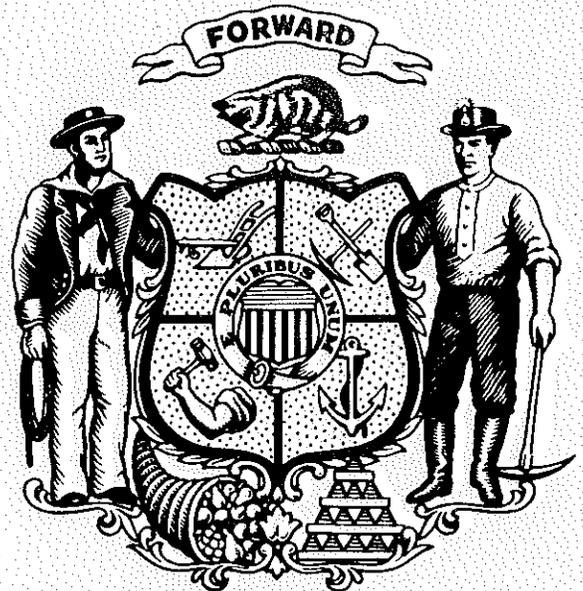
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CAMPAIGN FINANCE REFORM

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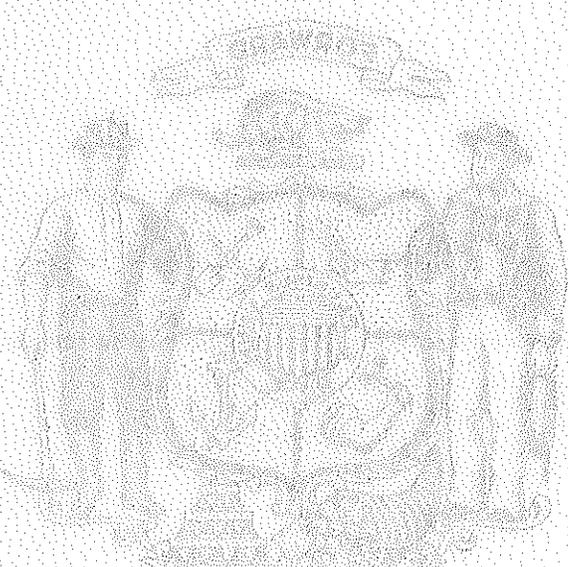
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CAMPAIGN FINANCE REFORM

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CAMPAIGN FINANCE REFORM

I. INTRODUCTION

History has demonstrated a cyclical pattern of interest in campaign finance reform. An accumulation of abuses culminate in an expose, followed by legislation to do something about it. On a nationwide scale, we are in such a cycle today.

No scandal of any consequence has surfaced in Wisconsin in recent years, which may indicate that state laws relating to campaign finance are adequate. Yet, competent persons who are familiar with the issues maintain that reform -- particularly in the areas of reporting and limitations -- are needed here, if only as a preventive remedy.

In Wisconsin, as in other states and Congress, the legislative logjam is broken. Campaign finance reform proposals that have been around for years in one form or another are now receiving serious, and generally favorable, consideration. Although diverse groups had previously been working toward these ends, primary credit for the new surge of interest is ascribed to the revelations growing out of the so-called "Watergate" affair. Particularly influential in galvanizing support are the televised hearings before the U.S. Senate Select Committee on Presidential Campaign Activities.

Significant reform bills are currently pending further action in the 1973 Wisconsin Legislature. The activities of a Governor's special study committee, legislative committees and the interest expressed by the Justice Department assure the introduction of further legislation on this subject later in the session. Enactment of a revised campaign finance law in Wisconsin is advocated as supplementing the state's new ethics code.

Developments in other states relating to campaign finance are breaking so fast that any written account is quickly rendered obsolete. The January 1974 issue of STATE GOVERNMENT NEWS reported that eleven state legislatures enacted tougher campaign finance laws in 1973: California, Florida, Hawaii, Iowa, Massachusetts, Nebraska, Nevada, New Jersey, Texas, Utah and Wyoming. Reform measures are pending in several other states, including Ohio, Michigan and Pennsylvania.

Generally speaking, these new laws have expanded and stiffened reporting requirements, limited the size and sources of contributions, prohibited anonymous giving (except in small amounts), altered the size and applicability of spending limits, and clarified enforcement responsibility. At least two states (Iowa and Utah) have enacted laws providing election campaign funds for state and local contests financed from a \$1 checkoff of state income tax.

The 92nd Congress passed significant reform legislation in 1971. There is every indication the 93rd Congress will continue the work in 1974.

This bulletin attempts a general overview of campaign finance law and suggested reforms.

Goals of Reform

The focus of reform is on the twin problems of reducing costs and special interest influence. Most people seem to feel the obvious problem of campaign finance is that too much money is being spent. Assuming that, one goal of reform is to reduce the upward spiral of campaign spending, without sacrificing the flow of public information.

A closely related problem is the major premise of Herbert Alexander's book, MONEY IN POLITICS; that is, political financing is potentially undemocratic and corrupting to the extent it depends on large contributions. Therefore, another basic goal of reform is to decrease the influence of special interest money or individual personal wealth in determining who runs for office, who wins, and subsequent leverage on public policy.

Constitutional Problems

Many campaign reform proposals involve constitutional problems. Without going into detail on this complex issue, it would be a serious oversight not to take cognizance of the dilemma it presents lawmakers.

Because the electoral process is fundamental to government, the state has the obligation and authority to protect the system in the public interest. These broad powers to legislative reasonable restrictions for the proper conduct of elections have been recognized by the courts. Application of these powers to campaign finance, however, is tempered by the need to preserve constitutional guarantees of freedom of expression. How far can the state go in protecting the purity of elections without abridging these freedoms? There are divergent opinions as to the point where the good intended by restricting an individual's right to express himself politically is objectionable because it unduly inhibits basic constitutional rights. Clearly, the scope of campaign finance legislation must strike a balance.

II. ROLE OF MONEY

While not denying its importance, we are warned against adopting too simplistic a view of the role of money in political campaigns. Money is one of a variety of campaign resources that can be arrayed in support of a candidate. Nonmonetary resources include a number of intangible as well as tangible factors. Incumbency, for instance, usually heads the list.

Whatever other factors might be suggested for inclusion in such a listing, and there are many versions extant, money is the one common denominator. It appears on every compilation as the single indispensable item.

Critical to an understanding of campaign finance is that money be viewed as a tool, an essential and perfectly legitimate ingredient. Election campaigning is fundamental to the democratic political process. It also happens to be very expensive. Someone must bear the costs.

Money's primary attribute as a campaign tool, which makes it unique among a candidate's resources, is its flexibility. There seems to be a general feeling that money can be used to overcome almost any other shortcoming; yet a direct cause-effect linkage between political spending and winning elections is difficult to prove. The big spender frequently loses. It takes money to run, but votes to win. Even if money alone may not win elections, however, it can be the decisive factor. Money buys the media coverage, pays the travelling bills and builds the organization necessary to provide exposure. It can create a whole new image (if necessary) while making the candidate's name a household word. Naturally, a great deal depends on the skill with which available money is utilized.

In sum, ample funding cannot guarantee success, but not enough is so severe a handicap in our adversary election process that it is next to impossible to win.

The role of money also has serious consequences beyond the campaign. One such system impact is the need for a successful candidate to begin building a fund to meet expenses of the inevitable reelection campaign and, perhaps, to pay debts left over from the last contest. These pressures draw on time, energy and creativity that might otherwise be devoted to the public's business. Elected public officials are on record as not only resenting this diversion of effort, but they also view it as an often degrading and sometimes corrupting experience.

III. CAMPAIGN COSTS

It is important to point out early that, in Wisconsin, as in other jurisdictions, no one really knows what campaigns actually cost; not the candidates, their campaign staffs, government election officials -- nobody. This situation exists because the law and other circumstances combine to produce a muddled picture of true receipts and disbursements. The publicly reported data relating to campaign finances is generally thought to be only a fraction of reality. Based on the reported portions of the total, we know campaigns are becoming very costly.

Even in the face of current scandals, however, few political expenditures are believed to violate ethics or law. The vast majority of spending goes toward legitimate purposes beneficial to the political (i.e. democratic) process, the health of which depends on a vigorous competition for office and a flow of information to voters.

Why are campaigns so expensive? Where does the money go? Mass media advertising is by far the greatest single expense.

Campaigns have become more media oriented. The role of technology in increasing campaign costs is most visible in campaigns that employ television. Television time is expensive; yet its extensive use is justified as the most efficient and effective way to reach large numbers of voters. It is a prime example of previously unavailable technology, techniques and expertise that will be exploited even if the costs are high.

Even though campaign expenditures are large and unquestionably rising, there are divergent views on whether they are out of proportion when measured against other standards. Some of the indicators used in the comparisons are the general level of inflation, population growth, expenditure per capita or per vote, income statistics, total government expenditures reflected in public budgets, the GNP, and the experience of foreign governments with democratic systems. The results have been debatable. It comes down to a question of how much is too much. Judging from the complaints of people who run campaigns, there is rarely enough.

Levels of expenditure that seem absurd to some scholars do not alarm others. To the latter, democracy is a bargain at any price. Total costs are not considered the problem so much as the correlary issues about the ramifications of how the money is raised -- where it comes from, how much and why -- and the purposes for which it is spent.

IV. SOURCES OF FUNDS

Ignoring the idea of government subsidies for a time, there are really only two sources of campaign funds: individuals and organizations. The origins of individual monetary support include dues paid to political parties or clubs, subscriptions to partisan literature, admission fees to political events, sale of novelty items (buttons, bumper stickers, clothing, records, etc.), and direct individual contributions.

Organization support is primarily composed of receipts from national, state and local party organizations, transfer payments between committees, and contributions from a variety of other politically active organizations. Both categories also provide a great deal of nonmonetary support in the form of valuable goods and services.

The classic answer to candidate dependence on support from special interests and wealthy individuals has been to vastly increase financial participation of the general public so that campaigns can be financed from the broadest possible base.

It is very much an open question if there would be a favorable public response to any scheme directed toward such ends. Note the failure of the federal income tax \$1 checkoff feature the first time around. Most people do not now contribute even small amounts to political parties or candidates. This indicates an underlying resistance, or even hostility to the idea. It may also result from a lack of strong political beliefs and identification with a political party or from an ignorance of the process by which elections are financed.

Whatever the reasons, political contributions simply do not enjoy the same acceptance and respectability as donations to a church, civic group or favorite charity. Even highly partisan "back your ballot with a buck" drives have not been very successful. A few reported experiments in soliciting nonpartisan giving fared even worse.

Aside from a personal reluctance of individuals to donate, there is a similar disinterest on the part of campaign organizations to solicit. Aggregating small contributions is a costly way to raise money. As the saying goes, it costs nearly a dollar to raise a dollar.

Individuals contribute for a variety of motives. Organizations form around some common special interest and therefore usually have more clearly defined political goals in matters of financial support.

The general goal of striving to elect persons with compatible views is understandable and certainly quite proper in a representative democracy. Because of its legislative, regulatory and contract awarding functions, a particularly symbiotic relationship exists between government and many of its citizens (corporate or otherwise). Some large contributors freely admit objectives beyond simply electing friends and defeating enemies. Apparently, the principal rationale boils down to a matter of access. The idea is to be granted a fair, more receptive (even sympathetic) hearing than might otherwise have been the case.

Securing this additional attention is a kind of influence akin to bribery, only far more subtle. It is impossible to assess its true impact on policymaking, or its consequences for the electoral process in general.

Before anything too sinister is read into the situation, it is a fact that this kind of pressure from opposing interest groups is a fundamental concept in our pluralistic system of government. While each of us has but one vote, allocating resources to politics is an accepted way to multiply one's impact beyond that single ballot in order to secure representation for a viewpoint. This idea has been labelled the functional representation of money.

It may well be, as has been observed, that the reputation of campaign money to influence policy far outdistances actual performance. Appearances can also be deceiving. Money from certain organizations and individuals flows to candidates with a record of competence or positions in agreement with the donor. Just looking like a winner attracts money. Funds may only reflect popularity, not create it.

One point deserves more attention. Even if there is no undue influence under the present system, with its reliance on large contributions, the impression of obligation persists. Whether the dangers are real or imagined, it produces suspicion and distrust. As long as the potential exists, it is very damaging in terms of the erosion of confidence and other implications it carries for our system.

V. REFORM PROPOSALS

Specific proposals have been made to regulate money in political campaigns and to move us toward achieving the goals of reform. Most prominent among these reforms are: (1) full disclosure, (2) limitations, (3) subsidies and incentives, (4) a number of miscellaneous suggestions in the area of structural changes and services, and (5) enforcement.

The examination of these reform proposals that follows is a composite of available material and is not intended to advocate any particular concept.

Disclosure

Full disclosure is considered a fundamental reform that should take precedence over any others. There is an uncommon unanimity on this point. Even though it is seen as a necessary prerequisite, disclosure becomes most effective when used in conjunction with other suggested reforms.

In the context of campaign financing, disclosure refers to the detailed reporting of contributions and expenditures. It is only tangentially related to the disclosure requirements usually found in codes of ethics for public officials. Ethics related disclosure concerns personal finances and pertains to conflict of interest situations.

Most states and the Federal Government now have campaign finance disclosure laws. While reporting requirements are common, they vary greatly. Wisconsin is among 10 states with more comprehensive laws that require reporting before and after both primary and general elections.

Secrecy is probably the most damaging aspect of campaign financing. Keeping the whole system as open as possible through full public disclosure is promoted as the antidote to excesses. Documenting who has contributed, in what amount, and how these funds are disbursed, is said to be fundamental to holding down spending, controlling the influence of special interests, and to restoring some measure of public confidence.

It is generally more difficult to keep track of incoming campaign funds than outgoing. Spending usually goes for easily verified goods and services rendered. Receipts, on the other hand, are complicated by such factors as fund transfers (in and out), fundraising activities between elections, carry-over from prior campaigns, concealment (deliberate or otherwise) and so on. One suggestion that would greatly facilitate disclosure efforts is mandating that all but the smallest monetary transactions be in some form other than cash.

Campaign financial disclosure laws have three main objectives: (1) inform the public, (2) act as a deterrent, and (3) detect violations. An all inclusive law would require centralized reporting of all contributions and other receipts; detailed accounting of all disbursements; enforcement procedures that include cross-checking and verifying statements; and a means of making the information available to the public.

Balancing this call for comprehensiveness, however, are the limitations of the real world. If the law's requirements are too stringent, bookkeeping becomes a burden. Only a workable system that stands the test of reasonableness will achieve good voluntary compliance.

Publicity. Effective disclosure is as dependent upon publicity as it is on the basic filing requirements. There can be no real accountability until the reported statements are made known.

One theory is that publicity will take care of itself. An alert press, the political opposition, good government groups, and public spirited citizens will see to it that the word gets out. But publicity may not automatically follow disclosure. The possibilities are enhanced if reliable information is available from one source, presented in a uniform format that is understandable, and made available in time to be both useful and newsworthy.

The self-enforcing process could be further assured if, in addition to simply having the raw data made available, the filing agency would predigest the information and supply an official summary for the use of press and public. A logical extension of the latter suggestion is to insure publicity by having the information compiled, published and distributed at government expense.

Administration. A disclosure system that allowed violations to pass undetected or unpunished would only serve to penalize the honest. Thus, a vital component of a proper disclosure scheme is an administrative apparatus to enforce the law strictly. Effective disclosure virtually mandates the creation of some centralized, independent authority to carry out this function (see Enforcement section below).

An adjunct to the problem of administration is the frequently mentioned suggestion that campaigns be required to adopt the so-called agency system. Some responsible person (or persons) is designated to act as financial agent or treasurer for the campaign. All financial transactions would be channeled through this centralized office, resulting in far fewer check points for any government watchdog agency to monitor.

A less far reaching alternative to the agency system is to require registration of individuals, committees or other organizations receiving or spending any funds for political purposes during a campaign. Kentucky's Registry of Election Finance is an example of this approach.

Incidentally, Florida's generally favorable experience with its pioneering disclosure law is invariably cited in the literature on the subject. Much acclaimed since it was initiated as a reform measure in 1951, it has been copied in other states with varying degrees of success. Popularly dubbed the "Who Gave It -- Who Got It" election law, Florida relies on reporting, while de-emphasizing limitations and foregoing subsidies.

One prime asset of full disclosure sometimes overlooked is its educational value. Our democratic system will function better when people are acquainted with the true costs of election campaigns and the sources of these funds. An understanding of the role money plays in the system is essential to an intelligent use of the ballot. It may even provide an incentive for more small contributions. It is also to be hoped that some of the prevailing disenchantment with the political process would be dispelled.

Limitations

Past campaign finance legislation has been generally negative. Statutes abound with a variety of specific limitations and prohibitions, relating to both contributions and expenditures. Current reform proposals emphasize revision or total elimination of these laws. Arbitrary limitations of the past have been condemned as unworkable, unenforceable and out of touch with reality. A growing electorate, inflation and the impact of new, costly technology accelerate campaign costs faster than rigid statutory limits can be adapted to changing conditions. Fixed limits also ignore regional variations in the electorate, competition, geography, available media and so on. Critics say these factors virtually insure that limits will be circumvented in many ways.

Contributions. Restrictions on contributions can apply to the amount and source. Several states and the Federal Government limit the amount an individual can contribute. Wisconsin does not. It is more common for states to prohibit contributions from certain sources. Corporate contributions are banned in many states, including Wisconsin, and by the Federal Government. Political contributions from labor unions are prohibited by the Federal Government and a few states, but not Wisconsin.

Certain corporate entities are still singled out (perhaps unfairly) for special attention in some statutes, including Wisconsin's. Utilities, banks and railroads are commonly mentioned.

Expenditures. Spending controls are the other side of the limitations coin. Over half the states, including Wisconsin, and the Federal Government have some kind of restriction on campaign expenditures. This ceiling can consist of a stated dollar amount, or, less commonly, it can be based on a formula. The latter might utilize the number of registered voters, votes cast in the last election, salary of the office sought, cost of living index, or a similar standard.

Yet another aspect of spending control is to designate by statute specific political activities that are acceptable as legal items of expenditure. It may operate in lieu of an overall ceiling, or be combined with a set limit. Wisconsin law stipulates legal disbursements, as well as imposing maximum limits.

There is a great deal of sentiment among reformers that some restrictions ought to be retained once they are made realistic and effective. Others favor their complete elimination. State legislation in recent years indicates that limits are losing favor. The trend has been to increase low ceilings, abolish them outright, make them more flexible, or apply them more selectively.

One school of thought would strictly limit contributions of all kinds, but allow expenditures to freely seek their own natural level. The real danger is seen as residing in raising of campaign funds, not in spending. In any case, a workable limitation on contributions would have the secondary effect of holding down total spending.

Specialized limits similar to the media restrictions provided in the federal Campaign Communications Reform Act of 1971 are widely viewed with favor. Two major ingredients account for the popularity of media limitations. First, media spending (TV and radio time, newspaper space, billboards, etc.) is the single largest object of expense in most campaigns. It is also the fastest rising cost. Second, expenditures for these purposes are at published, standardized rates that are relatively easy to verify for enforcement purposes.

Subsidies and Incentives

Subsidies and incentives are grouped together because incentives are really a form of indirect subsidy. Direct subsidies are grants of public funds to political parties or candidates, usually in a lump sum based on some formula, or perhaps a voucher system. Private contributions may or may not be prohibited.

More indirect forms of government subsidy are provided in incentive plans that encompass a program of matching grants, or through tax law in the form of deductions or credits. All are designed to stimulate private contributions.

A third variety of even more indirect subsidies is to provide government aid through a wide variety of "service plans". This approach is discussed below in the section on Other Reforms.

Direct Subsidy. The justification for increased public financial participation is based on a historical tradition of government absorbing more and more of the costs of the election process. Election campaigns are an inseparable and indispensable part of that process. It is proposed that government could also absorb a portion of these costs. Campaigns have become very costly and must be financed by some means. Present total reliance on private contributions has often proved inadequate and has ramifications that threaten our system of government. Moreover, one constantly hears about the benefits of broadening the base of campaign financing. Government subsidies would extend the base of support to all taxpayers -- virtually everyone.

Direct government subsidy is not a new idea. The literature invariably mentions that President Theodore Roosevelt advocated it in a message to Congress in 1907. Until 1973, no state had enacted a program of full or matching subsidies. Colorado attempted it just over 60 years ago. The state Supreme Court overturned the law before it went into effect, and it was subsequently repealed.

Similar legislation has been introduced in the Wisconsin Legislature, but without success. 1913 Senate Bill 311 is an early example. It would have created a 25c per vote fund, to be distributed through political parties in proportion to votes cast for their candidate at the last election for governor. Wisconsin did get involved in compiling and distributing voter information pamphlets for a brief time -- an indirect campaign subsidy (see Other Reforms -- Services section below).

Puerto Rico has experimented with an official government program of direct subsidies to support political parties and campaign activities. The plan, created in 1957, has received mixed reviews. The party which originated the program has subsequently become disenchanted. Apparently, not enough

money was provided by the scheme. Leaders also complained of a change for the worse in the attitude and morale of party workers as subsidies increased.

Federal individual income tax returns for calendar year 1972 were the first to reflect provisions of the Presidential Election Campaign Fund Act of 1971, which permits an optional \$1 checkoff of taxes owed to be earmarked for financing the 1976 presidential campaign. The taxpayer stipulates the party of his choice, or a nonpartisan fund. Under 5% of persons who filed made use of this option, producing about \$4 million. About \$20 million had been envisioned for each party in 1976. This may reflect an unwillingness to commit money blindly before knowing who will be the candidate. Advocates of the plan blame its newness and the fact that a separate form was required, thus discouraging greater participation. The Internal Revenue Service responded that it was not a deliberate attempt to conceal or confuse. A completely separate form was used to insure the confidentiality of partisan information.

As a result of the controversy, the checkoff feature will be prominently placed directly on the front page of the 1973 tax return forms, where presumably everyone will see it. A place will also be provided where a taxpayer is given another chance to designate the \$1 checkoff overlooked in 1972. Additional efforts will be made to publicize that the \$1 comes off tax liability. It is not an additional payment which increases the total.

The federal checkoff plan is a direct subsidy. In 1973, two states (Iowa and Utah) are reported to have enacted similar plans.

Opening the question of government subsidies always raises the issue of whether public funds should supplant or supplement private contributions. It is a difficult problem to resolve.

Matching incentives have been proposed as a compromise solution. Proposals to provide matching grants of public funds would not preclude voluntary support. Private contributions would be matched dollar-for-dollar (or at some other ratio) with public money up to a given amount. The maximum amount to be matched would be set at a low figure to produce a twofold effect. It would encourage active solicitation of large numbers of small donations, while the chance to double his money gives the "little guy" incentive for giving. It is contended that a broadened base of support, with a decreased reliance on a few large donors, would be the net result.

Tax incentives. Providing incentives to encourage private contributions by means of special tax credits or deductions is a popular reform suggestion, and one that has been implemented to some degree by the Federal Government and several states. Wisconsin follows the federal rule for itemizing political contributions for state income tax purposes. A person has complete control over his gift, which may go toward supporting political activities at any level of government.

Either a tax credit or deduction is a government subsidy to the extent that tax revenue is lost. A credit is subtracted directly from computed tax liability; the government pays the entire cost. Deductions are subtracted from taxable income before computing tax liability; loss of revenue is always less than the amount deducted. It depends on the person's tax bracket. Obviously, deductions are worth more to people with higher taxable income, while neither a deduction nor a credit is of any use whatever to taxpayers who do not itemize or to persons who owe no tax.

Government subsidies are probably the most controversial reform proposal. Depending on how the plan is structured, subsidies are considered by some opponents as posing a threat to the traditional political party structure and pattern of campaign support. Any subsidy (direct or indirect) is a tax on the general public to support political campaigning. Public acceptance of the idea, however, is said to be growing. A Gallup poll taken in September 1973 revealed that 65% of those surveyed thought it would be a good idea for the Federal Government to finance presidential and congressional elections, while prohibiting private contributions (24% - poor idea; 11% - no opinion). Whether this reflects the passions of the moment or a well thought out position is problematical. It is still questionable if there is enough real support to enact legislation. Legislators may resist championing subsidies because they appear so blatantly self-serving.

Other Reforms

This section groups together a number of miscellaneous reform suggestions, with emphasis on voter registration, structural changes and service plans.

A large proportion of election associated expenses is already born by government. It is local government, rather than state or federal, that ordinarily absorbs these costs. While the degree of

government participation varies among jurisdictions, the focus is on election day mechanics such as poll staffing, voting machines, election ballots, notices and other necessary supplies. Campaign reformers would have government -- state rather than local -- assume the costs of nonpartisan election activities now privately supported. A substantial amount of campaign spending, for instance, now goes toward promoting greater public participation. Private funds previously expended in these areas could be redeployed elsewhere.

Registration. Voter registration is one aspect of the election process that has received particular emphasis as being overripe for state legislative attention. Existing procedures are said to be too complicated and restrictive. Reformers call for rethinking the whole process of getting and staying registered. Studies cite registration procedures as a big factor in poor voter turnout. Some sort of state or national universal registration system is advocated. Allowing registration at the polls is an alternative suggestion. Another proposal would not leave the matter of registration to individual initiative, but aggressively seek out voters. Federal or state assistance would provide for a regular canvass of election districts to compile and maintain registration lists.

Registration in Wisconsin is a local matter to be carried out in accordance with state law. It is impossible to produce a statewide list of registered voters because municipalities under 5,000 in population are not required to keep a registry of electors. In 1971 the Governor's Task Force on Voter Registration and Elections studied the mechanics of registering and voting. Among other recommendations, its report embraced the idea of a state system of universal voter registration.

Structural changes. Certain structural changes in the system are also being pushed by reformers. Shortening the campaign period by law is one popular idea. Marathon election campaigns seem to be an ordeal for all concerned. Long and repetitious, they can exhaust a candidate both physically and intellectually. The senses of the electorate are similarly deadened. Long campaigns are thought to add enormously to campaign expenses.

Other structural reforms that have been suggested in relation to campaign finance resemble proposals to streamline government, calling for fewer elective officers, longer terms and higher pay.

A suggestion to separate state and local elections from national elections is designed to reduce the competition for funds.

Making election day a state or national holiday contemplates potential benefits that include greater voter turnout, increased availability of volunteer workers, and a reduction in certain privately supported election costs.

Service plans. The most obvious "service plans" are those whereby government reduces campaign costs that must be met from private funds by providing candidates with direct access to the people through free or cut-rate, mailing, radio-TV time, printing and the like. An indirect public subsidy through providing goods and services "in kind" is viewed with less repugnance by those persons who balk at handing candidates direct cash subsidies with little or no control over how the funds are spent. An impediment to this approach in Wisconsin is Article XIII, Section 11, of the Wisconsin Constitution, relating to passes, franks and privileges.

Related to this issue is the drive for Congress to repeal the so-called "equal time" rule found in Section 315 of the Federal Communications Act of 1934. This highly criticized rule requires broadcasters to make time available on an equal basis to all candidates running for the same office. Its intent is to prevent partisan domination of broadcast media. There is precedent for its abolition. Congress suspended it once for the Kennedy-Nixon debates of 1960. Similar suspension moves were defeated in the 1964, 1968 and 1972 presidential campaigns. The practical effect of the rule has not been equal time for all candidates, but more like no time for any candidate. Of course, simply repealing the rule will not automatically guarantee access for all candidates. That is why reform proposals envision taking the next step of requiring time be made available to candidates as a matter of right under the law.

Printing certain kinds of campaign material or reports under government subsidy is a suggestion made in the same framework as the preceding ones. Voter election information pamphlets devoted to the candidates is an example. In 1909, Oregon was the first to initiate state subsidized publicity pamphlets. The State of Washington soon followed. It was subsequently tried and abandoned in four or five other states, including Wisconsin.

The Wisconsin Corrupt Practices Act enacted in 1911 (Chapter 650) included a provision that the Secretary of State should issue a pamphlet containing the portraits and statements of candidates

before each primary and general election. These were to be printed by the state and distributed to every voter. Candidate participation was optional. A fee was assessed, but it fell short of meeting costs. A general lack of interest and unexpectedly high costs to the state caused the experiment to be terminated when Chapter 414, Laws of 1915, repealed the statute sections in question.

Enforcement

Reform legislation would be of little value without effective administration and enforcement. Existing filing systems in most states contain built-in factors that discourage effective enforcement. Statutes frequently do not clearly assign responsibility. Apart from a natural bureaucratic reluctance to rock the boat, partisan considerations are a disincentive to action.

The result is that violations usually escape notice unless uncovered by the media or an individual citizen. While the latter is usually an opposition candidate, it may also be a concerned citizen acting alone or representing some organization. Wisconsin's statutes provides a procedure by which any elector can petition for an investigation of alleged campaign irregularities (see Wisconsin Law section below).

A losing candidate may hesitate to challenge election campaign practices for several reasons: (1) the time, trouble and expense involved; (2) the odds against a successful challenge; (3) a desire to avoid a bad loser image for the sake of his political future; and (4) an understanding that election scandals are damaging to all elected officials.

Any person attempting to work with filed reports in most states finds the job complicated and full of pitfalls. Reporting requirements tend to produce a mass of material that is next to impossible to utilize. In addition to problems of nonreporting or disguised information, investigators complain of more mundane difficulties. Data is often incomplete, illegible or unintelligible, on nonstandardized forms, or simply too late to be of use.

To get around these problems, reformers envision some kind of state elections commission -- a single agency with explicit, realistic statutory authority, as independent of political influence as possible through nonpartisan or balanced bipartisan membership. It should be: (1) staffed to assure a systematic examination of all reports filed and to spot check a random sample much as revenue departments audit tax returns, and (2) empowered to charge violators and bring action to compel compliance. They advocate a mechanism allowing private citizens to charge violations. Publicity would be another function. Reports must be preserved, with access provided the media and general public. If desired, the agency could tabulate and summarize the data and perhaps even publish the results.

Penalties. The most threatening sanction to a candidate is removal from the ballot or denial of office if elected. This approach, however, is not without problems. First, removal from office is ineffective against a losing candidate. Second, its severity may rule out application to a winner. The violation charged usually involves some technicality. Wisconsin courts, for instance, have been very cautious about interpreting the law so strictly as to deny the electorate a choice on the ballot, or overrule the will of the people expressed at the polls, unless it is clearly shown that violations affected the outcome of the election.

These objections may indicate that a more conventional penalty provision involving monetary fines and imprisonment, in lieu of more draconian measures, may be more realistic.

VI. WISCONSIN'S EXPERIENCE

Background

Wisconsin's campaign finance law is embodied in statute Chapter 12, "Corrupt Practices Act". Historically, it follows precedent established in Great Britain. The British "Corrupt and Illegal Practices Act of 1883" departed from laws that only regulated election practices by requiring sworn financial statements and regulating spending. It set the pattern for similar early laws in the United States. New York enacted the first tentative state campaign finance legislation in this country in 1883 and 1890.

The origin of Chapter 12 of the Wisconsin Statutes is usually credited to 1911 legislation. In fact, some current sections are descendants of laws enacted as early as 1849. Its antecedents can be directly traced back to the late 1890's.

Chapter 358, Laws of 1897, "an act to prevent corrupt practices in elections..." was aimed at the cruder kinds of corrupt practices -- bribery, intimidation of voters, illegal voting, election fraud, ballot tampering and so forth. It did, however, include reporting requirements for the filing of financial statements. These were set out in explicit detail, with reports open to public inspection, and penalty provisions for noncompliance. Limitations on campaign contributions and expenditures were not included, except that a donor must reside in the candidate's district.

The early 1900's exhibited a growing concern over spending by candidates. Increased spending was one result of state election reform which produced the direct primary election system for selecting candidates, a much more expensive approach than nominations by party caucus or convention. The years immediately prior to the 1911 enactment saw a series of reform bills proposed to limit spending, both in amount and purposes.

If any one incident can be given credit for the 1911 rewriting of the Corrupt Practices Act, it would probably go to the successful 1909 campaign of Wisconsin's U.S. Senator Isaac Stephenson. Illegal acts were alleged to have been committed in his behalf. There also was a revulsion against "huge" expenditures to "buy" the Senate seat -- a reported \$107,800 -- that were quite legal because there were no limits in the law. The ensuing controversy did not prevent the U.S. Senate from voting to seat Stephenson. It did aid in the enactment of a new state Corrupt Practices Act that emphasized the use of money in elections.

This act was Chapter 650, Laws of 1911, creating statute Sections 94-1 to 94-39. These sections are presently numbered 12.01 to 12.29, plus the penalty provision now found in 12.70. It was not the first such law among the states, but it was considered to be the most comprehensive and advanced legislation of its type. Governor Francis McGovern's State of the State message addressed to a joint legislative session on January 12, 1911, devoted a portion to "An Effective Corrupt Practices Act" (1911 SENATE JOURNAL, pages 16 to 18). His call for "...prompt and thoroughgoing reformation" as a matter of highest priority provides insight into the thinking which prevailed at the time.

What began in 1911 as a comparatively tough law subsequently underwent a series of alterations. Legislative refinements made in the original law since 1911 have come in piecemeal fashion. Judicial refinements over the years through various court interpretations of the law also have had a great deal impact.

Legislative Council Study

The last comprehensive examination of the Corrupt Practices Act was made by the Wisconsin Legislative Council. A council subcommittee, the Election Laws Committee, held eleven meetings over a one-year period from December 1965 to December 1966. Its study assignment was made directly by the Legislative Council, based on the subject matter of 1965 Assembly Joint Resolution 42, which failed to pass.

An earlier council committee, which labored from 1963 to 1965 on election law recodification, had seen its proposal enacted into law during the 1965 session. This committee chose not to attempt a revision of statute Chapter 12, recommending instead that it be studied and revised as a separate project.

A reading of the council committee minutes pertaining to the Chapter 12 revision is very instructive. It provides insight into the law's actual operation from the viewpoint of practicing politicians, election officials, media representatives, political parties and good government groups -- all of whom had input into committee deliberations.

Focal point of the committee study was Florida's law regarding campaign disclosures and the National Municipal League's Model State Campaign Contributions and Expenditures Reporting Law, which is based on the Florida law.

The committee also examined a 1948 report by William H. Young, then an associate professor of political science at the University of Wisconsin, entitled "Corrupt Practices in Elections in Wisconsin: A Study with Recommendations". It was originally prepared at the request of Senator Buchen for submission to the Legislative Council's Judiciary Committee. This thorough examination of the laws of Wisconsin and other states made a series of specific recommendations. While it inspired no action at the time, the 1965 committee considered it still valid enough to utilize.

The committee concluded that Wisconsin's provisions regulating campaign financing "...have proved to be extremely outdated and unenforceable and as a result have been almost totally ignored."

It decided the provisions in Chapter 12 dealing with collection, disbursement and public reporting of campaign funds should be discarded as unworkable. In rewriting the law, the committee reached several conclusions.

Stating that the ineffectiveness of present campaign finance law is due primarily to the proliferation of authority in administering funds, it adopted the approach taken in both the Florida and the model law, recommending full disclosure, centralized accounting and adequate enforcement.

Admitting disagreement on the issue of limitations, no provision for ceilings on how much may be spent by or on behalf of a candidate in a campaign was recommended. In a divided vote, a majority of the committee felt that either: (1) limitations were unnecessary because full disclosure would probably deter excesses; or (2) while desirable, an effective plan for determining or enforcing limitations in a realistic and equitable manner was not available.

In considering other suggestions, the committee concluded that state participation in the form of issuing voter information pamphlets or donating broadcast time to candidates could not be justified. The idea of federal and state tax incentives for individuals who contribute to campaigns was endorsed.

The ban on corporate contributions was retained as an appropriate protection of stockholders. Although it was felt that union members were logically entitled to the same protection, the committee decided not to attempt including labor unions in the prohibition.

Effective enforcement was to be provided by clearly defining the allocation of responsibility at all levels.

Of incidental interest is a suggestion made at one point to retitile the chapter from "Corrupt Practices" to something more innocuous like "Prohibited Practices and Required Reporting". No formal action was taken.

The committee proposal was introduced as 1967 Assembly Bill 557. Since the full Legislative Council had refused to endorse the proposed subcommittee draft, it was introduced by the council without recommendation for passage. After a public hearing, AB 557 was reported out of Assembly committee without recommendation. The Assembly eventually voted 65 to 29 to have the bill "laid on the table", where it expired when the session adjourned sine die.

Wisconsin Law

A Common Cause book pertaining to campaign finance rates Wisconsin as one of 8 states with "adequate" laws (Lawrence Gilson, MONEY AND SECRECY: A CITIZEN'S GUIDE TO REFORMING STATE AND FEDERAL PRACTICES, 1972). The basis for this rating was a comparison with Common Cause's Model Campaign Finance Bill (Appendix "E" of the book) and the laws of other states. There is a recommendation that Wisconsin set limits on individual contributions.

Statute Chapter 12, the Corrupt Practices Act, lends itself to a two-part division along lines of clearly distinguishable subject matter. One broad category pertains to prohibited election practices, such as bribery and threats. The remaining part relates to the provisions created in 1911 regulating campaign financing, the primary concern of this bulletin. These provisions are Sections 12.01 to 12.29, plus 12.70. They comprise Wisconsin's law regarding the application of campaign finance regulations, limitations on expenditures, reporting requirements, enforcement and penalties.

Application. The law covers all candidates and political committees in all primary, general and special elections. It also applies to campaigns in connection with questions submitted to the people on the ballot, such as referenda and proposed constitutional amendments.

Limits on contributions. There are no limits on individual contributions. Except for reporting requirements, contributions do not receive much attention. The emphasis is on expenditure ceilings. Separate from the regulatory provisions under discussion are two campaign related prohibitions against special privileges from public utilities and political contributions by corporations (Section 12.55 and 12.56).

The ban on corporate contributions dates to 1905, when it was created by Chapter 492. There was a brief period in Wisconsin history when labor organizations were similarly barred. Chapter 135, Laws of 1955, the so-called "Catlin Act" (after Representative Mark Catlin, Jr.), made political contributions by labor unions illegal. This law was repealed in 1959 by Chapter 429.

Limits on expenditures. Disbursements are restricted in both amount and purpose. Statutory limitations on the amount of total spending are:

U.S. Senator - \$10,000
U.S. Representative - \$2,500
Governor and other constitutional executive officers - \$10,000
Supreme Court Justice - \$10,000
State Senator - \$1,000
State Representative - \$400
Presidential elector at-large - \$1,000
Presidential elector for any congressional district - \$300
Any elective office not enumerated - one-third of first years salary
If no salary and in all other cases - \$25

The state central committee of any political party may make additional disbursements or obligations in connection with any general election in a total of \$10,000.

A candidate may specifically delegate authority to spend in his behalf, but the aggregate must not exceed these limits.

There are two rather unique exceptions. The first is for one-quarter page of advertising (or its space equivalent) in newspapers circulated in the district. Second is a mass mailing of one communication to the voters in the district. There is no way accurately to assign a dollar value to these exceptions, but it may be a considerable sum.

The law also provides that the limitations and exceptions apply separately to each primary and general election campaign; in effect, doubling the allowances.

In any case, such limitations are a moot point in Wisconsin as long as spending through so-called "voluntary committees" is permitted (see Supreme Court Decisions section below).

Lawful disbursements are identified. Committee expenditures may include costs associated with headquarters maintenance, hall rentals, printing, distribution of literature, campaign advertising, salaries and expenses of speakers, and the travelling expenses of committee members. Spending by candidates is limited to personal hotel and travelling expenses, postage, telegraph, telephone, payments made to the state pursuant to law, contributions to party and personal campaign committees, and expenditures incident to the printing and distribution of political advertising on matchbooks. If a candidate does not create a campaign committee, he may assume its spending functions.

Expressly prohibited expenditures include payments for services performed on election day, or for loss of time or damage suffered by attendance at the polls, or the expense of transporting any voter to or from the polls.

Reporting. Every candidate, personal campaign committee, party committee and voluntary committee is required to file an itemized statement of receipts, obligations and disbursements at fixed intervals before and after every primary and general election. All campaign finance transactions of more than \$5 must be reported. Even if there have been no transactions, a report must be filed to this effect. Blank statements designed to meet filing requirements are furnished by the Secretary of State.

Statements are filed with the officer authorized by law to issue certificates of nomination and election of a successful candidate; usually the local clerks. Statewide officers, legislators, party committees, and other elective officers from multicounty districts file with the Secretary of State.

Any expenditure for a political purpose must be under the candidate's personal direction, through a personal campaign committee or party committee. Each candidate may appoint a single personal campaign committee and designate a secretary to be responsible for filing the required statements. Every committee member shall be presumed to be acting with the candidate's knowledge and approval until clearly proved otherwise.

A related disclosure requirement is that all campaign material and political advertising must be clearly identified as such, naming both sponsoring source and candidate.

Enforcement and penalties. The basic penalty provision has been unchanged since its creation in 1911. Violators are subject to a fine (\$25 to \$1,000) or imprisonment (one month to 3 years) or both. A convicted candidate may not take or hold the office to which he was elected.

No single agency is specified to supervise and enforce the law. Apparently, the self-enforcing aspects of the reporting requirements are intended to serve as a preventive remedy. Candidates neglecting to file statements shall not be certified or listed on the ballot. Certain late filings are allowed if accompanied by a court order. On petition of any elector, such order may be reviewed and set aside.

A petition procedure is provided whereby any elector may attempt to initiate proceedings to investigate alleged violations. A petitioner must request leave to bring such an action by applying -- each in turn -- to the county judge of the county where the violation took place, the Attorney General, or the Governor. If successful, an informal hearing on the petitioner's request must be conducted within 10 days. If the charges appear to have merit, a special prosecutor shall be appointed and proceedings brought in circuit court in the name of the state, with priority over other pending civil cases. No costs shall accrue to the petitioner if he acted in good faith.

If the court finds a violation occurred, judgment shall be entered declaring the election void, "ousting and excluding him (the candidate) from such office and declaring the office vacant." A different remedy, however, exists for legislators. The Wisconsin Constitution provides that each house is the judge of its own members (Article IV, Section 7). Court findings are transmitted to the presiding officer of the legislative body. Vacancies are filled in the normal manner provided by law. The judgment is no bar against additional criminal prosecution.

No sum incurred by a candidate in his defense shall be deemed part of campaign expenditures.

Supreme Court Decisions

At least two landmark decisions by the Wisconsin Supreme Court are nearly always cited in material relating to campaign finance. One is the *Pierce* case (*State v. Pierce*, 163 Wis. 615) in 1916, and the other is the *Kohler* case (*State ex rel. LaFollette v. Kohler*, 200 Wis. 518) in 1929 and 1930. *Pierce* established that voluntary committees could spend for political purposes. It also indicated that absolute spending prohibitions are unconstitutional, but the amount of individual spending is not beyond state regulation. *Kohler*, while reaffirming that legislation can fix limits, ruled that political spending by voluntary committees does not have to be included in a candidate's expenditure limitation. Taken together, the two cases allow voluntary committees to spend without an aggregate limit. The result is that most campaign finance activity is carried out through a variety of such voluntary committees. Via a legal fiction, they operate without any direct connection to the candidate, who "does not know" about spending which he did not authorize or control. The candidate's own resources, his personal campaign committee, and the political party all diminish in importance as campaign funding sources. Thus we have candidates reporting they disbursed little or nothing at all in their campaigns.

Pierce case. *Pierce*, a resident of Dane County, was convicted of making direct expenditures to communicate with electors in Rock County with the intent of influencing voting. State law provided that money spent for political purposes outside a person's county of residence had to be channeled through the candidate, his personal campaign committee or party committee (Sec. 12.05, 1915 Wis. Stats., "Disbursements by persons other than candidates"). The court overturned these provisions. It held that spending for political purposes by individuals or voluntary groups was a valid expression of freedom of speech and press guaranteed by Article I, Section 3, of the Wisconsin Constitution.

The Legislature responded to the decision in the 1917 session by enacting Chapter 566, which repealed the section in question. It was not until 1923 that the ruling was formalized in law by Chapter 249, which created statute Section 12.09(5), relating to filing of accounts of contributions and disbursements.

Kohler case. The *Kohler* case was the second time in Wisconsin history that an attempt was made to remove a governor through court action. The first occasion was the *Barstow-Bashford* case in 1856, in which the Supreme Court ruled William Barstow out of office. Issues other than campaign finance were involved.

Kohler involved alleged violations of the Corrupt Practices Act through excessive spending and other actions during the primary election campaign in 1928. One vital question settled by this case

was whether or not disbursements by voluntary committees should be included in a candidate's total expenditure limitation. The court said "no".

The phrase "on behalf of" in the Corrupt Practices Act, providing that no disbursement shall be made or incurred by or on behalf of any candidate for any office in excess of specific amounts, was construed to mean, as applied to a candidate, made or incurred by someone who acts for him in the sense that an agent acts for and on behalf of his principal. The authority to so act may be express or implied, but it must exist; otherwise, the disbursement is not made on behalf of the person sought to be charged.

The amount so limited does not include disbursements by others not agents of the candidate, leaving the aggregate amount of money which all other citizens may expend unrestricted, requiring only that all amounts be publicly filed.

Incidentally, the original 1911 Corrupt Practices Act specified that campaign expenditures by volunteer groups were permitted only under very limited circumstances. That situation, of course, was soon altered. The term "voluntary committee" does not appear in current law; however, such organizations come under the definitions of statute Section 12.09(5)(a), created by Chapter 249, Laws of 1923.

1973 Governor's Committee

In a press release dated May 4, 1973, the Governor announced that he had requested a study of campaign financing in Wisconsin be conducted by David Adamany, a University of Wisconsin professor of political science. The Governor's charge was to "review campaign finance practices in Wisconsin and recommend comprehensive legislation for the January 1974 legislative session".

In October 1973, the Governor's Study Committee on Campaign Finance issued a tentative draft entitled "Working Paper on Campaign Finance Reform". This preliminary report was soon followed by the first of a series of back-up reports issued irregularly in the form of press releases by committee Chairman Adamany. The final report will be transmitted in January.

What follows is a summary of the provisions in the proposal suggested by the Study Committee on Campaign Financing. Committee Chairman Adamany cautions in his covering letter that it is a tentative draft, but he believes it sets out the main lines which the final recommendations will assume.

Elections commission. A Wisconsin Elections Commission is created as a 7-member board appointed by the Governor with Senate confirmation. In order to provide balance, the Governor must appoint one member each from lists of five nominees submitted by 5 persons (Chief Justice; Senate majority and minority leaders; Assembly speaker and minority leader). The commission appoints a director, who may employ staff.

The commission is empowered to administer and enforce state election, corrupt practices and lobby laws. It may promulgate rules, subpoena, investigate, audit, inspect or require additional information of individuals, candidates and political committees. It is authorized to seek injunctions or forfeitures, and bring criminal prosecutions in its own name. Citizen complaints are directed to the commission. After 45 days of inaction, a complaining citizen may bring suit in circuit court. A security bond is required.

Registration. All candidates and committees must register with the Elections Commission. Each must establish a single treasurer and bank depository to handle all financial transactions.

Expenditure limits. According to the committee, ceilings on spending are set generously and are considered outside limits that will seldom be reached. They are tied to changes in population and consumer prices. Direct election expenditures that bear on the campaign of a particular candidate by political committees and associations are prohibited. This includes corporations, unions and voluntary committees. Individual expenditures are permitted up to the contribution limits. The following limits are for primary and general elections, respectively:

Governor	\$200,000/\$350,000
Lt. Governor	\$100,000/\$50,000 (teamed on ticket with Governor)
Other constitutional officers	\$100,000/\$200,000
Senate	\$8,000/\$14,000
Assembly	\$4,000/\$8,000
Others	10c (\$500 minimum)/15c (\$750 minimum) per eligible voter

Contribution limits. According to the committee, limits on contributions are set low as a check on high spending and to drive out dangerous special interest money. Matching grants of state funds will make up the deficit. Prohibited practices include contributions by minor dependents and "laundering" (giving in name of another person). Donations by political committees and associations are banned. Individual limits on contributions are:

Governor	\$500
Other constitutional officers	\$300
Other state office	\$100
Local office	Limited according to size of constituency

The aggregate of contributions of any individual in one year is limited to \$5,000.

A candidate is limited in the amount he can give to his own campaign: Governor - \$10,000; other constitutional officers - \$5,000; other public offices - \$1,000.

Matching grants. Contributions of \$100 or less to candidates for the 6 constitutional executive offices, supreme court justice, circuit court judge, and the state legislature can be matched by public funds. Frivolous candidates are discouraged by a series of eligibility thresholds. Restrictions on the use of these funds are provided. To eliminate carry-over and reduce tax costs, unused contributions (public and private) lapse back to the state up to the amount of public assistance. All spending is to be by check, and only for vouchered goods and services rendered.

All eligible candidates must maintain private and public funds in designated bank accounts monitored by the Elections Commission, open to public inspection, and with periodic disclosure. Political parties may open accounts for a particular elective office and solicit contributions for which matching grants are available.

Full disclosure. All candidates and committees are required to keep records of all contributions, expenses and loans, with periodic disclosure of such if amounting to \$25 or more. Disclosure reports are to be cumulative and continuous until all transactions cease. No contribution or expenditure of \$25 or more can be in cash. All contributions must be deposited within 7 days; all obligations paid within 7 days.

The Election Commission may exempt a candidate or political committee from disclosure if very small amounts are involved (set at some point below \$500 per year). Duplicate disclosure forms are filed with appropriate county clerks for local inspection.

Penalties. Unintentional violations -- forfeiture of not more than \$5,000; willful violations -- criminal penalties of not more than 3 years imprisonment, \$10,000 fine, or both.

Miscellaneous. There are a number of other provisions covering matters like candidate indebtedness and transition problems.

The committee report attempted to estimate the fiscal impact of these recommendations. It was thought that an Election Commission budget for the initial election year would be about \$150,000. Matching grants would cost the state around 27c per eligible voter each fiscal year, or about \$800,000. While costs are subject to many variables, the report editorializes that it would be "...a small price to pay to buy government back from the special interests and to revitalize our system of free competitive elections" (p. 35).

1973 Wisconsin Legislation

As of December 1973, Assembly Bills 1016 and 1373 are the only major proposals relating to campaign finance currently pending legislative action in 1974. The Assembly has adversely disposed of an earlier bill of broad scope, 1973 Assembly Bill 259, relating to the regulation of elections, campaign contributions and disbursements.

AB 1016 was developed by the Assembly Committee on Elections. Governor Lucey devoted a portion of his special message to the October legislative meeting to campaign finance. Terming the present statutes "archaic and nonfunctioning", he endorsed AB 1016 and asked that it be given priority attention.

As originally introduced, AB 1016 is essentially a comprehensive disclosure bill, establishing a uniform reporting system designed to produce precise, timely information for voters. It also requires candidates to name a treasurer and special depository through which all funds must flow. Limitations are imposed on contributions, but spending limits are repealed. A formal reporting structure clarifies the responsibilities of the Secretary of State and local clerks.

The bill has been through the Assembly Elections Committee, the Joint Finance Committee, and the Assembly Judiciary Committee. A controversial measure, lengthy criticism and over 40 amendments have been offered as of December 1973. The Judiciary Committee reported the bill out October 23. There was no further floor action before the floor period ended on October 26.

Both the original AB 1016 and Assembly Substitute Amendment 1 carry a statement of legislative intent that is remarkable for being quite candid about the relationship between campaign contributions and a candidate's performance. It reads (in part):

"One of the most important sources of information available to the voters are candidate financial statements. The statements provide background for the public positions taken by a candidate and may indicate the candidate's future voting patterns and whose advice the candidate might rely on when deciding how to vote."

AB 1373, introduced in late December, is an adaptation of a substitute amendment previously offered to AB 1016. The bill emphasizes disclosure through uniform reporting requirements, provides certain limitations, and would create an elections auditor position. It has been referred to the Assembly Committee on Elections.

A great many other measures relating to elections and campaigns have been introduced in the current session. These include bills specifically relating to voter registration, election advertising, poll workers, contested elections, filing requirements and corporate contributions. They have met with varying success. As of December 1973, none has yet progressed beyond its house of origin.

Of particular interest is 1973 Assembly Bill 679, which proposed to create a state campaign fund to help finance races for legislators, lieutenant governor and governor. Revenue for the fund was to be derived from an optional \$1 checkoff of tax liability on individual income tax returns (similar to the federal plan for presidential campaigns). AB 679 failed to pass in the Assembly.

A related proposal is 1973 Assembly Resolution 33, requesting the Legislative Council to study state funding of political campaigns and report its findings by January 15, 1974. It was rejected by the Assembly in a 50 to 42 vote.

Legislation embodying the reform proposals of the Governor's Study Committee on Campaign Finance is not expected to be introduced until the committee makes its final report in January 1974.

The Senate Judiciary and Insurance Committee began a series of public hearings on campaign finance reform proposals starting December 5, 1973: Senate Bills 547 and 766; and Assembly Bills 162, 259, 546, 679, 1016 and 1212. The Adamany report will also be reviewed. A bill draft that has not yet been introduced (LRB 6688), which is an adaptation of the Common Cause model law, was also listed for examination at that time.

It has been reported that the Chairman of the Senate Judiciary and Insurance Committee has ordered preparation of a bill for introduction that would use the 1971 Federal Election Campaign Act as a model for a new state campaign law, but with several substantial changes.

VII. FEDERAL LAW

The first federal legislation relating to campaign financing came in 1867 and was broadened in 1883 as part of civil service reform. A precursor to the better known Hatch Act (1939), it sought to protect officers and employes from political "assessments". The Hatch Act, which is still on the books, is designed to prevent a spoils system in the federal bureaucracy and to protect public employes from political pressures in campaign solicitation. Other significant legislation restricting campaign financing followed in 1907, 1910 and 1911. The federal Corrupt Practices Act of 1925, which applied exclusively to elections, served for over four decades until superseded by the congressional reforms enacted in 1971.

Presidential task force. A major federal study of campaign financing was initiated by President John Kennedy when he appointed a task force to explore the subject in 1961. The final report of the President's Commission on Campaign Costs, FINANCING PRESIDENTIAL CAMPAIGNS, was issued in April 1962. In summary, some of its recommendations included.

Experiment with tax incentives in the way of deductions and credits to encourage contributions supporting political activities.

Establish an effective system of public disclosure, including the creation of a Registry of Election Finance.

Prohibit contributions and direct, partisan campaign activity by both labor unions and corporations.

Provide for vigorous enforcement of all campaign finance laws.

Assist political parties to modernize and increase effectiveness of fund raising activities, including a call for a White House Conference to devise ways to broaden the base of support.

Promote research to increase campaign efficiency.

Suspend Section 315 of the Federal Communications Act regarding equal time for the major political party nominees for president and vice-president.

Encourage states to adopt campaign finance reforms; specifically, have the post office make change-of-address files available to assist local voter registration drives.

Give serious consideration to additional measures, especially "matching incentive" systems to stimulate solicitation of private contributions.

In general, the task force members felt that private, voluntary participation by citizens in the political process (including financial) was required in a democracy.

92nd Congress. The Federal Elections Campaign Act of 1971 (Public Law 92-225) is the first major campaign reform enacted by Congress since 1925. It applies only to federal elective offices. Although its scope is more modest than proposals in the original bill (S.382) its key provisions mark an abrupt departure from the past. They:

(1) Repealed the Corrupt Practices Act of 1925.

(2) Retained the "equal time" requirement of the Federal Communications Act.

(3) Set no overall spending limit, but a limit of 10c per voter (\$50,000 minimum) for communications media advertising. No more than 60% of media limit was to be for broadcasting.

(4) Required broadcasters, but not other communications media, to sell advertising to candidates at the lowest rate in effect for time and space used during the period preceding the election.

(5) Provided for adjustments in the media spending limitation based on the Consumer Price Index.

(6) Strengthened requirements for periodic, cumulative reporting to disclose the details of campaign spending and contributions in excess of \$100.

(7) Required candidate campaign reports to be filed in 3 places (Senate - Secretary of Senate; House - House Clerk; Presidential - Comptroller General). Copies of the reports must also be filed with the Secretary of State in states where an election is held.

(8) Defined more strictly the roles unions and corporations play in political campaigns. Direct contributions were prohibited, but they could disburse funds donated voluntarily by members or employees.

(9) Limited the amount of personal wealth a candidate or his family could donate to his own campaign (President or Vice President - \$50,000, Senate - \$35,000, House - \$25,000). No maximum limit was set on contributions of other individuals.

(10) Divided enforcement responsibility. A person may file a complaint with the proper filing agent, or the agent may initiate an inquiry on his own. The 3 filing agents monitor reports, but cannot prosecute violations. Violations are reported to the Justice Department, which decides whether to initiate proceedings.

(11) Provided penalties ranging from a \$100 fine and 1 year imprisonment to \$5,000 and 5 years.

The 92nd Congress also attached a rider to the President's tax plan which established tax incentives for political contributions and a public fund to finance presidential campaigns (Public Law 92-178).

A tax credit of \$12.50 for an individual, or \$25 for a married couple filing a joint return, was established. An alternative tax deduction of \$50 for an individual, or \$100 for a married couple, was also provided. These would apply to contributions made to candidates at any level of government, at any election.

Starting in 1973, the law authorized taxpayers to designate on their tax returns that \$1 (\$2 for a couple) be paid into a public campaign fund for presidential candidates of a qualified major or minor party or into a general campaign fund to be distributed among qualified candidates.

Congress had approved a plan in 1966 setting up a presidential election campaign fund based on a \$1 checkoff of taxes owed. This was the Presidential Election Campaign Fund Act of 1966, Public Law 89-806. No partisan choice was provided. The fund was to be divided evenly between Democratic and Republican parties, plus a share for any minor party that garnered over 5 million votes in the preceding election. The law was never activated. Opponents managed to suspend actual operation of the system in 1967 until Congress adopted guidelines for distributing the funds, which it never did. Eventually the act was repealed and replaced by the 1971 law.

93rd Congress. Not satisfied with the campaign finance law revisions enacted by the 92nd Congress, the 93rd Congress is presently considering additional reform legislation. Most prominent is the Federal Election Campaign Act Amendment of 1973 (S. 372). After a floor debate that saw the bill heavily amended to make it more restrictive, the bill passed by an 82 to 8 vote in the Senate on July 30, 1973. It is currently pending further action in the House of Representatives. In summary, S. 372 limits expenditures and contributions, provides for detailed reporting, creates a Federal Elections Commission, and repeals the "equal time" rule.

Expenditures by presidential and congressional candidates are limited in most states to 10c per voting age constituent in a primary (\$125,000 minimum), 15c for a general election (\$175,000 minimum). Minimums for House candidates is \$90,000 separately for primary and general elections.

Contributions by an individual or political committee are limited to \$3,000 per candidate, applying separately to primary and general elections. There is a \$25,000 per year maximum on individual contributions to all candidates. Contributions over \$50 may not be made in cash. An existing prohibition against indirect contributions by unions or corporations holding government contracts is repealed.

All financial reports must be filed with the Federal Elections Commission through a central campaign committee designated by the candidate. All contributions over \$100 must be reported, including the name, address and occupation of donor.

A 7-member Federal Elections Commission is created to receive reports and enforce the law (Comptroller General and 6 Presidential appointees confirmed by the Senate). The commission is empowered to issue subpoenas, bring civil and criminal actions, and impose fines.

The equal time rule of the Federal Communications Act is repealed, but certain safeguards are provided.

Penalty provisions include a fine (\$2,000 to \$100,000), imprisonment (1 to 10 years), or both. A differentiation is made between willful and nonwillful violations.

Federal subsidy. S. 372 does not now incorporate a federal campaign subsidy. The first thorough hearings on proposals to fund federal campaigns with tax dollars were held in September 1973 by the Subcommittee on Privileges and Elections of the Senate Rules and Administration Committee. By December 1973, 6 major bills have been introduced on this topic. One bill (S. 2297) proposes a pure federal subsidy for presidential and congressional elections, allowing no private contributions. The remaining 5 proposals keep a mix of private and public funds (S. 1103, S. 1954, S. 2238, S. 2417, and HR 7612). None of these measures would provide any money for state or local elections.

The public hearings revealed several problem areas, including: (1) whether private contributions ought to be entirely barred or used in some system of matching grants, (2) who should be eligible for public funding, and (3) whether primary races should be covered.

In an attempt to provide federal funding for 1976 presidential candidates, a rider was attached to vital legislation extending the temporary national debt ceiling. The move failed, but not before it inspired a Senate filibuster and caused a historic Sunday session.

State impact. The significance of the 1971 federal legislation for Wisconsin (and other states) was illustrated by a formal opinion issued by the Wisconsin Attorney General (6/16/72) at the request of the Governor. Areas of overlap and conflict between federal law (P.L. 92-225) and Wisconsin Statutes as it applies to candidates for federal office are now apparent. Because of these discrepancies, certain provisions in Wisconsin law relating to expenditure limitations (to cite one example) are probably invalidated. New state legislation may be required.

VIII. SOURCES

Not individually listed is a series of very useful studies published by the Citizens' Research Foundation, a group of educators, government officials and other interested persons organized to research money in politics.

The following material, available at the Wisconsin Legislative Reference Bureau, was particularly helpful:

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..., FINANCING POLITICS, 1969 (325.52/Ad1b).
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..., CONGRESSIONAL QUARTERLY WEEKLY REPORT (328.12/C761).
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