

# Democratic Renewal: A Call to Action from America's Heartland

## Wisconsin

### *Summary of Findings, Policy Advances, and Recommendations*

#### **Findings**

1. Public confidence in the integrity of Wisconsin politics and government has reached a new and alarming low.
2. Wisconsin is being battered by the worst political corruption scandal in its history, a calamity that is rooted primarily in the campaign money chase that is central to the emergence of a pay-to-play culture in state government.
3. Wisconsin's once-effective and highly regarded partial public financing system has collapsed.
4. The advent in 1996 of interest group-funded "issue ads"—the unregulated and undisclosed spending on election communications designed to influence election outcomes without explicitly calling for the election or defeat of candidates—has effectively rendered Wisconsin's campaign contribution limits, campaign disclosure requirements, and ban on corporate donations irrelevant.
5. The breakdown of Wisconsin's quarter-century-old campaign finance system has unleashed an unprecedented and unchecked campaign fundraising arms race.
6. Wisconsin's dysfunctional campaign finance system and partisan gerrymandering have, in combination, significantly reduced electoral competition, especially for state Assembly and Senate seats.
7. In the face of serious violations of state campaign finance and ethics laws, Wisconsin's Board of Elections and Board of Ethics repeatedly failed to fulfill their most basic responsibilities. A recently created and hopefully more politically independent enforcement agency has its work cut out to make amends for those past failures.
8. The appearance of conflicts of interest stemming from the political associations of nonpartisan judges, partisan state lawmakers, and major interest groups is becoming much more pronounced in Wisconsin, threatening to undermine public trust in the fairness and impartiality of state judges and the independence of the state's courts.

9. Wisconsin's Legislature has evolved from one of the nation's most decentralized to one of the most centrally controlled. Along with this change has come more rabid partisanship, the professionalization of state politics and a caste system of interest groups.
10. Money appears to be distorting state government decisions in Wisconsin—from the enactment of legislation to administrative oversight and rulemaking to government contracting.
11. Despite the many challenges facing Wisconsin's political system, very few public officials or prominent private sector leaders have been willing to stand up and provide the political and moral leadership the state desperately needs and deserves.
12. The quality of news coverage of state elections, government, and public affairs—and especially the coverage provided by Wisconsin's commercial television stations—is declining, contributing to an increasingly uninformed, disengaged, and cynical electorate.
13. The public's faith in the integrity of elections in Wisconsin has been shaken, with potentially serious consequences for participation in the democratic process.

## **Policy Advances and Recommendations**

### ***Campaign Finance***

#### ***Advances***

- In 1998 the Legislature passed the “Citizens Right to Know” law, which requires electronic filing of campaign finance reports. However, the new law was not implemented until 2002—and only after reform groups hired a law firm, threatened to seek a court order compelling the Elections Board compliance with the law, and drafted an emergency rule (which was subsequently adopted by the Board) directing candidates to submit their campaign reports in an electronic format beginning in July 2002.
- In August 2003 the Legislature passed and the governor signed a “pay-to-play” ban that makes it a felony for lawmakers to trade votes for campaign contributions. Before final passage, the bill was amended to ensure that the ban applied to all public officials and candidates for state and local office, not just state legislators.
- Legislation (*2005 Assembly Bill 65*) requiring out-of-state political committees to comply with the same campaign finance disclosure requirements as in-state committees was passed by the Legislature and signed into law by the governor in

March 2006. This change in state law addresses the laundering of campaign contributions through out-of-state committees to skirt state restrictions on the source of donations. However, amid curious circumstances, the new law (*2005 Wisconsin Act 176*) was not incorporated into the state statutes, and subsequent legislation (*2007 Senate Bill 160*) had to be introduced to start the process of re-enacting the law.

- Rules that took effect in January 2007 prevent state candidates from transferring funds from a federal campaign account to a state account to finance a run for state office. Former Congressman Mark Green transferred \$1.3 million in funds raised by his congressional campaign committee to a state account he used to run for governor in 2006. Green's transfer gave him a substantial financial advantage over his rival for the Republican nomination, Milwaukee County Executive Scott Walker. Walker ultimately withdrew from the race, depriving Republican primary voters of a choice in the race. Well after Walker already had left the race, the Elections Board ordered Green to dispose of \$468,000 of his transferred funds that came from political action committees based in Washington, D.C. A circuit court judge upheld the Elections Board ruling, and the state Supreme Court declined to take up the case, allowing the order to stand.

### ***Recommendations***

- Revitalize Wisconsin's voluntary partial public financing system by:
  - Setting reasonable, voluntary spending limits as a threshold condition for receiving public funds and for reducing campaign costs in the most competitive races (for example, no more than \$75,000 for Assembly candidates, \$150,000 for Senate candidates, and \$4 million for gubernatorial candidates).
  - Providing candidates who voluntarily agree to limit their spending with public grants equal to at least 35 to 45 percent of the legally established spending limits for the offices they seek.
  - Requiring full disclosure of spending on all electioneering communications and the fundraising by interest-group sponsors to finance such communications.
  - Offering supplemental public grants to candidates who are targeted by interest group spending or are opposed by candidates who do not agree to limit their spending.
  - Providing a reliable funding source sufficient to cover the full cost of public grants to candidates.

- Prohibit campaign fundraising during the state budget process and ban contributions by anyone bidding for a state contract.
- Eliminate leadership-controlled legislative campaign committees.
- Limit contributions from special interest conduits.
- Ban the pooling of special interest political action committee money to create so-called “SuperPACS.”

## ***Government Ethics***

### ***Policy Advances***

- Ethics enforcement reform legislation introduced as 2007 Special Session Senate Bill 1 was passed unanimously in the Senate in January 2007 and was approved on a 97-2 vote in the Assembly before being signed into law by the governor as 2007 Wisconsin Act 1 on February 2. The legislation replaces the state Elections Board and Ethics Board with a politically independent enforcement agency under the direction of a nonpartisan Government Accountability Board made up of six retired judges. The law gives the new board expanded enforcement authority and an unlimited budget for investigations.
- The Contract Sunshine Act of 2005 directed the Wisconsin Ethics Board to create and maintain a Website at which anyone can access information about every state contract, purchase, and solicitation of bids or proposals that involves an annual expenditure of \$10,000 or more. The board unveiled the new Website in June 2006.
- On June 27, 2006, the Wisconsin Ethics Board inaugurated a new online index entitled “Eye on Financial Relationships.” The index, whose development was underwritten substantially by The Joyce Foundation, is intended to provide journalists, civic groups, and interested citizens with ready access to information about the reported financial interests of state government officials. The annual reports filed with the board include information about officials’ employers, creditors, investments, real estate, and businesses with which they are associated as officers, directors, or representatives.

## ***Lobbying Reform***

### ***Policy Advances***

No significant changes to lobby laws or practices have been recently put in place in Wisconsin.

### ***Recommendations***

- Tighten up the state’s “revolving door” policy by requiring at least a one-year “cooling off” period before former legislators and key administrative officials can become registered lobbyists.
- Require disclosure of attempts to influence decisions on state contracts. (Currently lobbyists must disclose actions aimed at influencing legislation or administrative rules, but not contracts.)

### ***Election Laws and Administration***

#### ***Policy Advances***

- In January 2006 a “paper trail” bill (*2005 Assembly Bill 627*) requiring any electronic voting equipment used in Wisconsin to produce a verifiable paper record was signed into law as 2005 Wisconsin Act 92.
- Comprehensive legislation (*SB 612*) reflecting the recommendations of the Legislative Council’s Special Committee on Election Law Review was enacted into law and took effect July 1, 2006. The law seeks to make voter registration and voting procedures uniform across the state, and improves and requires training for poll workers and election officials.

### ***Recommendations***

- Complete and fully implement a computerized statewide voter registration system as required under the federal Help America Vote Act of 2002.
- Permit experimentation with alternative voting procedures such as preferential or rank-order voting—also commonly known as instant runoff voting—to enhance voter choice, address concerns about “wasted votes” or “spoiler candidates,” and thereby stimulate greater interest in participating in elections.

### ***Judicial Independence***

#### ***Policy Advances***

No significant changes aimed at promoting judicial independence have been recently made in Wisconsin.

### ***Recommendations***

- Establish a voluntary full public funding system for election campaigns of state Supreme Court and other state appellate judges.

### ***Redistricting***

#### ***Policy Advances***

No changes to the process used to redraw legislative and congressional districts in Wisconsin have been made.

### ***Recommendations***

- Make electoral competitiveness a legal or constitutional standard that must be applied by the Legislature and the courts in establishing district boundaries.
- Establish an independent commission or authority to handle the task of redrawing legislative and congressional districts after each census.

### ***Media***

#### ***Policy Advances***

- A comprehensive campaign finance law was enacted in July 2002 that included a provision requiring public broadcasting television stations and public access channels in Wisconsin to provide free airtime to candidates for state office. However, as previously noted, the court struck down the entire law because it included an unrelated and unconstitutional provision requiring advance notice of planned electioneering activity by advocacy groups. Legislation was enacted during the 2005-2006 legislative session removing remnants of that court-invalidated law from the state statutes.

### ***Recommendations***

- Create a system of free airtime for Wisconsin candidates by requiring the state's public broadcast stations and public access channels to set aside a certain amount of time for this purpose.
- Enact a state "stand by your ad" law requiring candidates to appear in and personally state their responsibility for the content of the ads they sponsor.