

Chapter EIBd 1

CAMPAIGN FINANCING

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EIBd 1.02 Multiple candidacies. (1) Any candidate seeking election to an office other than that indicated on a registration statement or that of the candidate's personal campaign committee must file an amended registration statement with the appropriate filing officer or officers indicating such change. Financial disclosure reports filed subsequent to such change must be filed with the filing officer for the office designated on the amended registration statement.

(2) When a candidate is simultaneously seeking election to more than one office, the candidate shall file duplicate consolidated registration statements indicating all offices sought and duplicate consolidated financial disclosure reports with the appropriate filing officers. The personal campaign committee of such a candidate is responsible for ensuring compliance with the contribution limitation applicable to each office sought.

(3) Regardless of the number of offices sought, a candidate may not have more than one committee, treasurer and campaign depository account.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76; correction in (1) and (2) made under s. 13.93 (2m) (b) 5., Stats., Register, November, 1986, No. 371.

EIBd 1.04 Debt retirement; treatment of contributions received and accepted after election. (1) Contributions received and accepted for the purpose of retiring debts incurred in a prior campaign should be counted against the contributor's contribution limit for said campaign. Contributions received and accepted in excess of the amount needed to retire such debt shall be counted against the contributor's contribution limits applicable to the next campaign on a first-in first-out basis with the contributions received and accepted first applied to debt retirement.

(2) Notwithstanding the above, a contribution received and accepted between the period that begins on the day after the closing date for the pre-election campaign finance report period and ends on the day after the closing date for the period covered by the first financial report filed by or on behalf of the candidate subsequent to the date of the previous election, or if the candidate has incurred obligations from a previous campaign, the date on which the candidate receives sufficient contributions to retire those obligations shall be counted against the limits for the campaign in

which the election took place, regardless of whether all campaign debts have been retired at the time the contribution is received.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76; am. (2), Register, February, 1986, No. 362, eff. 3-1-86.

EIBd 1.05 Reporting of disbursements. Every withdrawal of funds except for internal transfers for investment purposes from the campaign depository account must be reported in accordance with ss. 11.06 and 11.20, Stats.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

EIBd 1.06 Corporate registration and reporting. (1) Every foreign or domestic corporation or association organized under ch. 185, Stats., which establishes a separate segregated fund pursuant to s. 11.38 (1) (a) 2., Stats., shall register with the appropriate filing officer on a form prescribed by the board.

(2) Every foreign or domestic corporation or association organized under ch. 185, Stats., which is required to register pursuant to sub. (1), shall file financial disclosure reports with the appropriate filing officer in accordance with s. 11.20 (4), Stats., on a form prescribed by the board.

History: Cr. Register, July, 1976, No. 247, eff. 8-1-76.

EIBd 1.10 Reporting by nonresident committees and groups. Every nonresident committee or group as defined in s. 11.07 (6), Stats., acting in support of or in opposition to any candidate for state or local office, which makes or accepts contributions, incurs obligations or makes disbursements exceeding \$25 cumulatively in a calendar year within this state shall register both with the appropriate filing officer under s. 11.05 (1), Stats., and with the secretary of state under s. 11.07 (1), Stats.

History: Emerg. cr. 8-16-74; cr. Register, November, 1974, No. 227, eff. 12-1-74.

EIBd 1.11 Reporting of joint fundraiser. (1) Any personal campaign committee, political party committee, or legislative campaign committee which conducts a joint fundraiser under s. 11.16 (5), Stats., shall register with the appropriate filing officer by filing a supplemental schedule, Form EB-2JP, at the time of signing the escrow agreement with the candidate on whose behalf the joint fundraiser is conducted.

(2) The supplemental schedule, Form EB-2JF, shall identify the committees conducting the fundraiser, the candidates on whose behalf the joint fundraiser is conducted, the percentage of the net proceeds distributed to the candidate, and the escrow depository account. A copy of the escrow agreement shall be attached to form EB-2JF.

(3) The sponsors of the joint fundraiser shall prepare a regular campaign finance report, Form EB-2, or a public funding campaign finance report, Form EB-24, to report expenses qualifying for exclusion under s. 11.31 (6), Stats. The campaign finance report shall report all contributions and disbursements. The sponsors shall give a copy of the report to each candidate or committee receiving any share of the net proceeds from the fundraiser within 25 days after the fundraiser is held. The sponsors shall file the campaign finance report with the filing officer when the next campaign finance report is due under s. 11.20 (3) and (4), Stats. If the sponsors have not received and paid all the bills for the joint fundraiser by the time the sponsors file the first campaign finance report, the sponsors shall continue to file a regular campaign finance report as required until termination.

(4) The candidates or committees receiving any of the net proceeds from the joint fundraiser shall report on their regular campaign finance report their share of the net proceeds as a single contribution from the joint fundraiser, attaching a copy of the campaign finance report received from the sponsors. If any contributor to the joint fundraiser also makes an individual contribution to the candidate's campaign during the calendar year of the joint fundraiser, and the contributor's total contributions exceed \$20 in that period, the candidate who receives the additional contribution from the contributor shall report the additional contribution as an itemized contribution with the applicable information about the contributor under s. 11.06 (1) (a) and (b), Stats. The amount of any itemized contribution shall be subtracted from the reportable amount of the single contribution from the joint fundraiser.

History: Cr. Register, June, 1987, No. 378, eff. 7-1-87.

EIBd 1.15 Filing reports of late campaign activity.

(1) Any registrant required to file a special report of late campaign activity pursuant to ss. 11.12 (5), (6) and 11.23 (6), Stats., shall comply with the provisions of this section.

(2) A registrant required to file a special report disclosing the receipt of contributions from a single source, totaling \$500 or more cumulatively during the 15 day period immediately preceding a primary or an election, shall use Form EB-3 or use a format which is acceptable to the filing officer and which contains the information required by the board on Form EB-3.

(3) A registrant required to file a special report of late independent disbursement exceeding \$20 during the 15 day period immediately preceding a primary or an election shall use Form EB-7 or shall use a format which is acceptable to the filing officer and which contains the information required by the board on form EB-7.

(4) A special report of late campaign activity is timely filed when it is in the physical possession of the filing officer within the time prescribed for filing. Except as provided in sub. (6), any special report of late campaign activity also shall be treated as timely filed when it is mailed with the U.S. postal service, by first class mail, with sufficient prepaid postage, addressed to the appropriate filing officer, and postmarked not later than the date prescribed by law for the filing of such report.

(5) If the date on which a special report of late campaign activity is due is a Saturday, Sunday, or legal holiday, the special report shall not be due until the next business day.

(6) If a special report of late campaign activity is required to be filed on the day of or the day immediately preceding a primary or an election, the report is not timely filed unless it is actually received at the office of the appropriate filing officer before the

close of business on that day, unless that day is a Saturday, Sunday, or legal holiday.

(7) If the filing officer for a special report of late campaign activity is the state elections board, a registrant filing the report on the day of or the day immediately preceding a primary or an election may file by sending a facsimile (FAX) copy by telecopier on the date, if the signed original of the report is received through the U.S. mail with a postmark not later than the date due.

History: Cr. Register, January, 1992, No. 433, eff. 2-1-92.

EIBd 1.20 Treatment and reporting of in-kind contributions. (1) In this section:

(a) "Actual value" means the fair market value.

(b) "Authorized person" means a candidate, treasurer, agent, other person whom a candidate designates, or a person whom any other registrant designates to authorize a proposed in-kind contribution.

(c) "Contributor" means any individual or registrant who proposes to make an in-kind contribution.

(d) "Date of contribution" means the time as of which the benefit, of the thing of value given or of the service performed, is conferred upon the candidate's campaign or upon the registrant.

(e) "In-kind contribution" means a disbursement by a contributor to procure a thing of value or service for the benefit of a registrant who authorized the disbursement.

(f) "Registrant" has the same meaning as provided in s. 11.01 (18m), Stats.

(2) Before making an in-kind contribution to a candidate or other registrant, the prospective contributor shall notify an authorized person and obtain that person's oral or written consent to the contribution.

(3) When an individual other than a registrant receives authorization to make an in-kind contribution, the authorized person shall obtain from the contributor, in writing: the contributor's name and address and, where applicable, the contributor's occupation and the name and address of his or her principal place of employment; the nature of the contribution, its actual value and the date of the contribution.

(4) When a registrant receives authorization to make an in-kind contribution, the registrant shall provide to the authorized person, in writing, before the closing date of the next campaign finance report in which the contribution is required to be listed: the registrant's name and address; the nature of the contribution and its actual value; and the date of the contribution.

(5) If a contributor does not know the actual value of an in-kind contribution, the contributor shall give an authorized person a good-faith and reasonable estimate of the fair market value, before the closing date of the next campaign finance report in which the contribution is required to be listed. When the contributor receives bills or other statements reflecting the actual value of the in-kind contribution, the contributor shall immediately forward that information to an authorized person.

(6) An in-kind contribution shall be reported as received and accepted by the candidate or registrant on the date that the benefit, of the material supplied or the service performed, is conferred upon the candidate or other registrant.

(7) A candidate or registrant shall report the value of the in-kind contribution disclosed to him or her by the contributor. If a contributor estimates the fair market value, a candidate or registrant shall report the estimated value. After being informed of the actual value, by the contributor, a candidate or registrant shall report the actual value on the next campaign finance report.

(8) Without the proper authorization to make an in-kind contribution, a contributor may not make the proposed in-kind contribution unless the contribution qualifies as an independent expenditure under s. 11.06 (7), Stats., and under s. EIBd 1.42.

(9) Any registrant who makes or receives an in-kind contribution shall report the contribution on Schedule 3-C of its campaign finance report.

History: Cr. Register, January, 1992, No. 433, eff. 2-1-92.

EIBd 1.25 Loan treatment respecting limitations. A loan when made by any person, committee or group (except a loan of money by a commercial lending institution made by the institution in accordance with applicable banking laws and regulations in the ordinary course of business) shall be reported as a contribution or disbursement, and also as an incurred obligation by the debtor. When such a loan is received by a registrant, it is counted within the contribution limitation of the creditor while outstanding, but is not counted within the limitation after repayment. The amount or value of any such outstanding loans and any other contributions or disbursements shall at no time exceed any limitation specified in ss. 11.26 and 11.31, Stats.

History: Cr. Register, March, 1975, No. 231, eff. 4-1-75; am. Register, February, 1986, No. 362, eff. 3-1-86.

EIBd 1.26 Return of contribution. (1) This rule is promulgated to clarify the treatment and reporting of returned contributions.

(2) The return of a contribution is not a disbursement subject to the limitations on disbursements in s. 11.31, Stats., and it is not a contribution subject to the limitations on contributions in s. 11.26, Stats.

(3) A candidate who applies for a grant from the Wisconsin election campaign fund and who returns a contribution that was deposited into the campaign depository shall report the returned contribution on either the Wisconsin election campaign fund campaign finance report, Form EB-24, or the campaign finance report, Form EB-2. The candidate shall make the report on the form that is due for the period when the contribution was returned. When the candidate reports on Form EB-24, the candidate shall report the returned contributions on both Schedule 2-A, DISBURSEMENTS, Schedule 2-D, EXCLUSIONS FROM SPENDING LIMITS, and Schedule 3-A, ADDITIONAL DISCLOSURE as a returned contribution. When the candidate reports on Form 2-A, the candidate shall report the returned contribution on both Schedule 2-A, DISBURSEMENTS, and Schedule 3-A, ADDITIONAL DISCLOSURE, as returned contribution.

(4) Any registrant and candidate who does not apply for a grant from the Wisconsin election campaign fund who returns a contribution that was deposited into the campaign depository shall report the returned contribution on the campaign finance report, Form EB-2, that is due for the period when the contribution was returned. The candidate shall report the returned contribution on both Schedule 2-A, DISBURSEMENTS, and Schedule 3-A, ADDITIONAL DISCLOSURE, as a returned contribution.

(5) Any registrant and candidate who returns a contribution that is not deposited into the campaign depository within 10 days of receipt is not required to report the returned, unaccepted contribution on a campaign finance report.

(6) A registrant who receives a return of contribution shall report it on the campaign finance report, Form EB-2, on Schedule 1-C, OTHER INCOME, and shall designate this as "return of contribution."

History: Cr. Register, March, 1975, No. 231, eff. 4-1-75; am. Register, September, 1978, No. 273, eff. 10-1-78; r. and recr. (3) to (5), cr. (6), Register, February, 1986, No. 362, eff. 3-1-86.

EIBd 1.28 Scope of regulated activity; election of candidates. (1) Definitions. As used in this rule:

(a) "Political committee" means every committee which is formed primarily to influence elections or which is under the control of a candidate.

(b) "Contributions for political purposes" means contributions made to 1) a candidate, or 2) a political committee or 3) an individ-

ual who makes contributions to a candidate or political committee or incurs obligations or makes disbursements for the purpose of expressly advocating the election or defeat of an identified candidate.

(2) Individuals other than candidates and committees other than political committees are subject to the applicable disclosure-related and recordkeeping-related requirements of ch. 11, Stats., only when they:

(a) Make contributions for political purposes, or

(b) Make contributions to any person at the request or with the authorization of a candidate or political committee, or

(c) Make expenditures for the purpose of expressly advocating the election or defeat of an identified candidate.

(3) Consistent with s. 11.05 (2), Stats., nothing in sub. (1) or (2) should be construed as requiring registration and reporting, under ss. 11.05 and 11.06, Stats., of an individual whose only activity is the making of contributions.

History: Emerg. cr. eff. 8-25-76; cr. Register, January, 1977, No. 253, eff. 2-1-77; am. (1) (b) and (2) (a), Register, February, 1986, No. 362, eff. 3-1-86.

EIBd 1.29 Scope of regulated activity; referenda.

The requirements of disclosure and recordkeeping of s. 11.23, Stats., are applicable to individuals and groups other than groups formed primarily to influence the outcome of a referendum as to contributions, disbursements and obligations which are directly related to express advocacy of a particular result in a referendum. Nothing contained herein should be construed to exempt groups formed primarily to influence the outcome of a referendum from the requirements of disclosure and recordkeeping of s. 11.23, Stats.

History: Emerg. cr. eff. 8-25-76; emerg. am. eff. 9-7-76; cr. Register, January, 1977, No. 253, eff. 2-1-77.

EIBd 1.30 Revocation of exemption from filing campaign finance reports. (1) When a person, committee or group other than a committee or individual required to file an oath under s. 11.06 (7), Stats., who or which claims an exemption from filing campaign finance reports because the registrant will not receive contributions, make disbursements, or incur obligations in an aggregate amount in excess of \$1,000 in a calendar year and who or which does not anticipate accepting any contribution or contributions from a single source, other than contributions totaling no more than \$1,000 made by the candidate to his or her own campaign, exceeding \$100 in that year, the registrant shall lose the exemption when the registrant exceeds the \$1,000 and \$100 limits, respectively. The registrant shall then inform the appropriate filing officer by filing either an amended campaign registration statement (Form EB-1) stating that the registrant is no longer eligible for exemption or by a letter filed with the filing officer or with the U.S. postal service by first class mail with sufficient prepaid postage, addressed to the appropriate filing officer, no later than the date on which the registrant exceeds the \$1,000 and \$100 limits. The registrant becomes subject to the applicable reporting requirements as of the date on which the registrant exceeds the \$1,000 and \$100 limits, including the requirement to report contributions received, disbursements made, and obligations incurred before the registrant exceeds the \$1,000 and \$100 limits.

(2) When any political party committee claims an exemption from filing campaign finance reports because the registrant has signed an indication on a registration statement that the committee will not accept contributions, make disbursements, or incur obligations in the aggregate in excess of \$1,000 in any calendar year and will not accept any contribution or contributions from a single source exceeding \$100 in that year, the registrant shall lose the exemption when the committee's financial activity exceeds the \$1,000 and \$100 limits, respectively. The committee shall then inform its filing officer by verified letter filed with the filing officer or with the U.S. postal service by first class mail with sufficient prepaid postage, addressed to the appropriate filing officer, no

later than the date on which the registrant exceeds the \$1,000 and \$100 limits. The committee becomes subject to the applicable reporting requirements as of the date on which the registrant exceeds the \$1,000 and \$100 limits, including the requirement to report contributions received, disbursements made, and obligations incurred before the registrant exceeds the \$1,000 and \$100 limits.

(3) For purposes of qualifying for exempt status under s. 11.05 (2r), Stats., the transfer of party member dues from a state political party to a local party shall not be considered a contribution from a single source. A local political party shall not lose its exempt status because of transfers to it by the state party of party member dues in excess of \$100.

History: Emerg. cr. eff. 9-13-76; cr. Register, January, 1977, No. 253, eff. 2-1-77; r. and recr. Register, May, 1986, No. 365, eff. 6-1-86; emerg. am. (1), eff. 7-1-86; am. (1), Register, November, 1986, No. 371, eff. 12-1-86; cr. (3), Register, April, 1998, No. 508, eff. 5-1-98.

EIBd 1.32 Contribution of partnership funds. (1) As used in this rule, "partnership" includes all associations organized for profit and all other partnerships.

(a) A contribution in the name of a partnership shall be treated as an individual contribution from each partner in relation to each partner's interest in the partnership profits or losses unless the partners agree to apportion the contribution otherwise.

(b) When a contribution is made in the name of a partnership, the registrant must obtain the information as to each partner's share thereof within 30 days after receiving the contribution or return the contribution.

History: Cr. Register, June, 1977, No. 258, eff. 7-1-77.

EIBd 1.33 Retirement of campaign debts incurred to business creditors. (1) As used in this section "an obligation incurred by a registrant to a business creditor" means an obligation incurred by the registrant for goods or services.

(2) An obligation incurred by a registrant to a business creditor will be treated as a contribution of the creditor if any part of the obligation is outstanding for a period longer than that consistent with normal business or trade practice, or if the obligation is settled for less than the outstanding debt, unless a showing is made to the registrant's filing officer that the creditor has treated the obligation in a commercially reasonable manner. Such a showing must include at least the following:

(a) The initial extension of credit on which the obligation was incurred was made in the ordinary course of business with terms substantially similar to those granted to non-political debtors of similar credit risk; and

(b) The creditor has made all reasonable efforts to retire the debt, including pursuit of all remedies which would normally be employed by the creditor in pursuit of a non-political debtor. "Reasonable efforts to retire the debt" include lawsuits, if filed in similar circumstances.

History: Cr. Register, August, 1977, No. 260, eff. 9-1-77.

EIBd 1.34 Use of funds received from Wisconsin election campaign fund. (1) The term "printing, graphic arts or advertising services" includes, but is not limited to, the ordinary and necessary direct costs of planning, preparing proof copy and paste up, and printing or other like production of copy that is used in the candidate's election campaign.

(2) The term "office supplies" includes expendable items normally utilized in office situations such as, but not limited to, envelopes, paper, cards, notebooks, pens, pencils, ribbons, tapes, paper clips, rubber bands, duplicating supplies, manuals and journals.

(3) Grant funds from the Wisconsin election campaign fund may not be used for the purchase or rental of office furniture and equipment; office rent; utilities; telephone, telegraph or teletype costs; or insurance costs.

History: Cr. Register, December, 1979, No. 288, eff. 1-1-80; emerg. am. (1), eff. 7-1-86; am. (1), Register, November, 1986, No. 371, eff. 12-1-86.

EIBd 1.36 Allocation of expenditures in nonpartisan elections. (1) This rule is promulgated to clarify the allocation of expenditures between the primary and general election by candidates who receive public funding in a nonpartisan election.

(2) A candidate in a nonpartisan election who is subject to the limitations and disbursement levels specified in s. 11.31, Stats., may make expenditures for items used in the pre-primary period to be allocated toward the disbursement limitations for the primary until the date the candidate knows there is no primary.

(3) Any expenditures made after the date the candidate knows that there is no primary, shall be applied to the disbursement limitation for the general election.

(4) For purposes of this rule, a candidate shall be deemed to know that there will be no primary on the day following the last day that nomination papers must be filed with the appropriate officer.

History: Cr. Register, December, 1979, No. 288, eff. 1-1-80.

EIBd 1.38 Return of contributions to committees by candidates who receive public funding. (1) A candidate may return any contribution received from a committee or a political party committee for purposes of receiving a larger grant from the Wisconsin election campaign fund within the time period specified in sub. (3).

(2) The candidate shall disclose the date, amount and source of the returned contribution on the applicable campaign finance report form.

(3) Any contribution returned no later than 7 days after the primary shall not be counted against the limits specified in s. 11.50 (9), Stats.

History: Cr. Register, December, 1979, No. 288, eff. 1-1-80.

EIBd 1.385 Return of contributions to contributors by candidates when candidates file nomination papers for offices that have lower contribution limits than the limits that applied at the time of the contributions. A candidate shall be subject to the contribution limits that apply to the candidate at the time of the primary election at which the candidate's name appears on the ballot. If a candidate for any office has unspent contributions in his or her campaign depository at the time of filing nomination papers that were lawful at the time of receipt but exceeded the contribution limit that applies to the office for which the candidate is seeking nomination, the candidate shall dispose of the unspent contributions. The candidate shall either return the excess contribution to the contributor on a reasonable basis that the candidate determines or donate the excess contribution to either the common school fund or a charitable organization.

History: Emerg. cr. eff. 6-1-86; cr. Register, November, 1986, No. 371, eff. 12-1-86.

EIBd 1.39 Conversion of federal campaign committee to state committee. (1) As used in this rule,

(a) "Federal campaign committee" means the campaign committee of a candidate for federal office, which is not registered with a state or local filing officer, and

(b) "State campaign committee" means the personal campaign committee of a candidate for state or local office.

(2) A federal campaign committee may convert to a state campaign committee and use funds collected for federal purposes in a state or local campaign by filing a campaign finance registration statement, pursuant to s. 11.05, Stats., with the appropriate filing officer and simultaneously filing a campaign finance disclosure report showing the sources of all funds on hand at the time of the report, pursuant to the requirements of s. 11.06 (1) (a), (b), (c), (d) and (f), Stats. In determining the sources of funds on hand and allocating those funds among the sources, the funds shall be treated on a last-in, last-out basis, so that they will be attributed

in the report to the most recent sources, in the full amount received from each source.

History: Cr. Register, August, 1977, No. 260, eff. 9-1-77.

EIBd 1.41 Mailing registration forms. (1) Where a requirement is imposed for the filing of a registration statement no later than a certain date, the requirement may be satisfied either by actual receipt of the statement by the prescribed time for filing at the office of the filing officer, or by filing a report with the U.S. postal service by first class mail with sufficient prepaid postage, addressed to the appropriate filing officer, no later than the date provided by law for receipt of such report.

(2) In any case where the postal service is employed by a person subject to a registration requirement as the agent for transmittal of a statement, the burden is upon such person to show that a statement has been filed with the postal service.

(3) It is presumed until the contrary is established that the date shown by the postal service cancellation mark on the envelope containing the statement is the date that it was deposited in the mail.

History: Cr. Register, January, 1978, No. 265, eff. 2-1-78; corrections made under s. 13.93 (2m) (b) 1., Stats., Register, January, 1994, No. 457.

EIBd 1.42 Voluntary committees; scope of voluntary oath; restraints on voluntary committees.

(1) **NECESSITY OF VOLUNTARY OATH FOR INDEPENDENT CANDIDATE-RELATED ACTIVITIES.** No expenditure may be made or obligation incurred over \$25 in support of or opposition to a specific candidate unless such expenditure or obligation is treated and reported as a contribution to the candidate or the candidate's opponent, or is made or incurred by or through an individual or committee filing the voluntary oath specified in s. 11.06 (7), Stats.

(2) **SCOPE OF VOLUNTARY OATH.** A committee or individual filing the voluntary oath may make expenditures or incur obligations in support of or opposition to a candidate if the expenditures or obligations incurred are made in cooperation or consultation with any candidate or agent or authorized committee of a candidate who is supported or opposed, and in concert with, or at the request or suggestion of, any candidate or any agent or authorized committee of a candidate who is supported or opposed, so long as the expenditures or obligations are treated and reported as a contribution to such candidate. A committee or individual filing the voluntary oath is prohibited from making expenditures in support of or opposition to a candidate if the expenditures or incurred obligations are made in cooperation or consultation with any candidate or agent or authorized committee of a candidate who is supported or opposed, and in concert with, or at the request or suggestion of, any candidate or any agent or authorized committee of a candidate who is supported or opposed, and the expenditures or obligations are not reported as a contribution to such candidate.

(3) **TREATMENT AND REPORTING OF INDEPENDENT ACTIVITY BY VOLUNTARY COMMITTEE.** When a committee or individual filing the voluntary oath makes an expenditure or incurs an obligation in support of or in opposition to a candidate and the individual or committee does not act in cooperation or consultation with any candidate or agent or authorized committee of a candidate who is supported or opposed, and in concert with, or at the request or suggestion of, any candidate or any agent or authorized committee of a candidate who is supported or opposed, the expenditure or incurred obligation shall be treated and reported as an "independent disbursement" or "independent incurred obligation". When such disbursements or obligations are reported, the candidate in whose support or opposition the disbursement is made or obligation incurred should be identified on a separate schedule (EB-9) giving the name and address of the candidate, the amount, the date, and the purpose of the disbursement and an indication whether the candidate is supported or opposed.

(4) **AN INDIVIDUAL OR COMMITTEE MAY MAKE BOTH DIRECT CONTRIBUTIONS AND INDEPENDENT EXPENDITURES.** An individual

or the committee filing the voluntary oath may make both direct contributions, and independent expenditures on behalf of a candidate in support or opposition to a candidate as long as the direct contributions are within the contribution limits set out in s. 11.26, Stats., and the individual or committee making the independent expenditure does not act in cooperation or consultation with any candidate or agent or authorized committee of a candidate who is supported or opposed, and in concert with, or at the request or suggestion of, any candidate or any agent or authorized committee of a candidate who is supported or opposed.

(5) **SPECIAL DISCLAIMER REQUIREMENT.** A political message in support of or opposition to a candidate by a committee or individual not acting in cooperation or consultation with any candidate or agent or authorized committee of a candidate who is supported or opposed, and in concert with, or at the request or suggestion of, any candidate or any agent or authorized committee of a candidate who is supported or opposed shall contain, in addition to the ordinary identification required by s. 11.30 (2), Stats., the words: "The committee (individual) is the sole source of this communication and the committee (individual) did not act in cooperation or consultation with, and in concert with, or at the request or suggestion of any candidate or any agent or authorized committee of a candidate who is supported or opposed by this communication".

(6) **GUIDELINES.** (a) Any expenditure made on behalf of a candidate will be presumed to be made in cooperation or consultation with any candidate or agent or authorized committee of a candidate who is supported or opposed, and in concert with, or at the request or suggestion of, any candidate or any agent or authorized committee of a candidate who is supported or opposed and treated as an in-kind contribution if:

1. It is made as a result of a decision in which any of the following persons take part:

a. A person who is authorized to raise funds for, to spend the campaign funds of or to incur obligations for the candidate's personal campaign committee;

b. An officer of the candidate's personal campaign committee;

c. A campaign worker who is reimbursed for expenses or compensated for work by the candidate's personal campaign committee;

d. A volunteer who is operating in a position within a campaign organization that would make the person aware of campaign needs and useful expenditures; or

2. It is made to finance the distribution of any campaign materials prepared by the candidate's personal campaign committee or agents;

(b) The presumption in par. (a) may be rebutted by countervailing evidence that the expenditure is not made in cooperation or consultation with any candidate or agent or any authorized committee of a candidate who is supported or opposed, and in concert with, or at the request or suggestion of, any candidate or any agent or authorized committee of a candidate who is supported or opposed.

History: Cr. Register, January, 1978, No. 265, eff. 2-1-78; emerg. am. eff. 9-4-84; am. Register, March, 1985, No. 351, eff. 4-1-85; correction in (6) (a) 1. c. made under s. 13.93 (2m) (b) 5., Stats., Register, January, 1994, No. 457.

EIBd 1.43 Referendum-related activities by committees; candidate-related activities by groups. (1) As used in this rule, "committee-group" means any committee which acts in support of or opposition to a referendum, and any group which acts in support of or opposition to a candidate.

(2) Any committee-group may consolidate referendum-related and candidate-related activity by:

(a) Filing a duplicate consolidated registration statement or amending a previously filed registration statement with the appropriate filing officer or officers, indicating all candidates and referenda supported or opposed, or

(b) Filing duplicate consolidated financial disclosure reports, which indicate the specific purpose of each expenditure so as to differentiate between expenditures intended to influence referenda and expenditures intended to influence the election or defeat of a candidate.

(3) A committee-group which consolidates activity pursuant to this rule is subject to those limits on the receipt of contributions to which it would be subject if it were operating solely as a committee.

(4) A committee-group which consolidates activity pursuant to this rule must have a single treasurer and a single depository.

(5) Notwithstanding the above, any committee-group may separate referendum-related and candidate-related activity by filing separate registration statements, separate financial disclosure reports, and by maintaining a separate depository for each type of activity.

History: Cr. Register, January, 1978, No. 265, eff. 2-1-78.

EIBd 1.44 Disbursement levels. (1) **LIMITATION IMPOSED.** Except as authorized in s. 11.50 (2) (i), Stats., applying to disbursement levels, no candidate for state office who files a sworn statement and application to receive a grant from the Wisconsin election campaign fund and who receives and accepts any such grant may make or authorize total disbursements from the campaign treasury in any campaign which exceed the amounts specified below.

(2) The following levels of disbursements are established with reference to the candidates listed below until the disbursement levels are adjusted pursuant to s. 11.31 (9), Stats. Except as provided in sub. (1), such levels do not operate to restrict the total amount of disbursements which are made or authorized to be made by any candidate in any primary or other election.

(a) Candidates for governor, \$323,450 in the primary, and \$754,750 in the election.

(b) Candidates for lieutenant governor, \$215,650 in the primary, and \$107,825 in the election.

(c) Candidates for attorney general, \$269,500 in the primary, and \$269,500 in the election.

(d) Candidates for secretary of state, state treasurer, justice of the supreme court and state superintendent of public instruction, \$86,250 in the primary, and \$129,375 in the election.

(e) Candidates for court of appeals judge, \$32,350 in the primary, and \$53,900 in the election.

(f) Candidates for state senator, \$34,500 total in the primary and election, with disbursements not exceeding \$21,575 for either the primary or the election.

(g) Candidates for representative to the assembly, \$17,250 total in the primary and election, with disbursements not exceeding \$10,775 for either the primary or the election.

(h) Candidates for circuit judge, \$86,250 total in the primary and election.

(i) In any jurisdiction or district, other than a judicial district or circuit, with a population of 500,000 or more, according to the most recent federal census covering the entire jurisdiction or district:

1. For the following county offices:

a. Candidates for county executive, \$269,550 total in the primary and election.

b. Candidates for district attorney, \$161,725 total in the primary and election.

c. Candidates for county supervisor, \$17,250 total in the primary and election.

d. Candidates for any other countywide elective office, not specified in counties of this size, \$107,825 total in the primary and election.

2. For the following offices in cities of the 1st class:

a. Candidates for mayor, \$269,550 total in the primary and election.

b. Candidates for city attorney, \$161,725 total in the primary and election.

c. Candidates for alderperson, \$17,250 total in the primary and election.

d. Candidates for any other citywide office, \$107,825 total in the primary and election.

(j) Candidates for any local office who are elected from a jurisdiction or district with less than 500,000 inhabitants, according to the latest federal census or census information on which the district is based, as certified by the appropriate filing officer, an amount equal to the greater of:

1. \$1,075, or

2. 53.91% of the annual salary for the office sought, rounded to the nearest \$25, or

3. 32.35 cents per inhabitant of the jurisdiction or district, rounded to the nearest \$25, but in no event more than \$43,125 in the primary and election.

History: Emerg. cr. eff. 4-27-78; cr. Register, August, 1978, No. 272, eff. 9-1-78; emerg. am. eff. 2-19-80; emerg. am. eff. 6-17-80; emerg. am. eff. 2-18-82; emerg. r. and recr. eff. 5-1-84; am. Register, October, 1984, No. 346, eff. 11-1-84; emerg. am. (1), eff. 5-1-86; am. (2), Register, November, 1986, No. 371, eff. 12-1-86; correction in (2) (i) 2. c. made under s. 13.93 (2m) (b) 5., Stats., Register, January, 1994, No. 457.

EIBd 1.45 Return of excess grant funds from Wisconsin election campaign fund after campaign. Pursuant to s. 11.50 (8), Stats., all grants from the Wisconsin election campaign fund which are unspent and unencumbered by any candidate on the day after the election shall be returned to the state elections board no later than the date of filing the use of grant report which is filed with the next continuing campaign finance report due after the election.

History: Cr. Register, February, 1985, No. 350, eff. 3-1-85; emerg. am. eff. 7-1-86; am. Register, November, 1986, No. 371, eff. 12-1-86.

EIBd 1.455 Allocation of disbursements of Wisconsin election campaign fund grant and other campaign funds. A candidate subject to the disbursement limitations under s. 11.31, Stats., and s. EIBd 1.44 who disburses grant and other campaign funds:

(1) May prorate a disbursement between the primary election spending limit and the general election spending limit if the proration accurately reflects the use of the purchased materials or services in the respective primary and general election campaigns.

(2) May use grant money from the Wisconsin election campaign fund to pay the amount allocated to the general election even if the disbursement was made before the primary election.

(3) May not allocate to a future campaign any disbursements for services or materials delivered during the current campaign.

(4) May not make any disbursements during the current campaign for a future campaign until on or after the first day after the day of the election and may only make such disbursements out of campaign funds which are not excess funds that must be returned to the Wisconsin election campaign fund.

(5) May not encumber any excess funds remaining on the first day after the day of the election with incurred obligations for a future campaign.

(6) May retire debts from previous campaigns by making disbursements during the current campaign.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

EIBd 1.46 Identification of individual contributors on campaign finance reports. (1) The requirement contained in s. 11.06 (1) (a), Stats., to furnish the street address of a contributor who has made a contribution or contributions aggregating more than \$20 in a calendar year includes the municipality and state as well as the street address. A complete postal address

is sufficient to meet the disclosure requirement contained in the statute.

(2) The requirement contained in s. 11.06 (1) (b), Stats., to furnish the occupation and principal place of business, if any, of each individual contributor whose cumulative contributions for the calendar year are in excess of \$100 refers to the contributor's occupation and the name of the employing entity of the contributor. The listing of a business address only does not comply with the disclosure requirement of the statute.

History: Cr. Register, February, 1985, No. 350, eff. 3-1-85.

EIBd 1.50 Non-candidate committees collecting on behalf of a specific candidate and the voluntary oath.

When a non-candidate committee accepts contributions on behalf of a specific candidate, it must file the voluntary oath in s. 11.06 (7), Stats., by which the committee's independence of the candidate is affirmed. A political action committee whose campaign finance reports show support of only one candidate is presumed to be accepting contributions in support of that candidate and required to file the voluntary oath in s. 11.06 (7), Stats., by which the committee's independence of the candidate is affirmed. That presumption may be overcome by countervailing evidence.

History: Cr. Register, June, 1979, No. 282, eff. 7-1-79.

EIBd 1.55 Reimbursement for campaign use of government vehicles. Whenever a state or local government vehicle is used primarily for the purposes of campaigning in support of or in opposition to a candidate for national, state, or local office, there must be paid to the state treasurer or governing body of the local government a fee which is comparable to the commercial market rate for a similar vehicle or aircraft. The obligation, if any, to reimburse the state or local government shall be included on the campaign finance report covering the period during which the obligation was incurred.

History: Cr. Register, October, 1979, No. 286, eff. 11-1-79; r. and recr. Register, May, 1986, No. 365, eff. 6-1-86; emerg. am. eff. 7-1-86; am. Register, November, 1986, No. 371, eff. 12-1-86.

EIBd 1.56 Commercial sales by political registrants. (1) When a registrant receives donated items for resale the proceeds from the resale transaction shall be reported in the following manner:

(a) The receipt of the item shall be reported in the registrant's campaign finance report as an in-kind contribution and as an in-kind expenditure at the fair market value of the donated item;

(b) The resale of the item shall be reported in the registrant's campaign finance report as a contribution from the purchaser in the amount paid by the purchaser.

(c) The registrant must make a good faith effort to accurately reflect the fair market value of the item in its campaign finance report.

(2) When a registrant sells an item which it has purchased for resale to raise funds for political purposes, the entire amount of the proceeds of the sale shall be reported in the registrant's campaign finance report as a contribution from the purchaser.

(3) The proceeds from the sale of food and beverage at a fundraiser by a registrant shall be reported in the registrant's campaign finance report as a contribution from the purchaser.

(4) When items are sold, including food and beverage, at a cost that is less than \$10.00, the registrant should report the proceeds of the sales as contributions, but they may be listed as "unitemized contributions" in the campaign finance reports. A good faith effort does not require that records be kept of the identity of the purchaser of items where the cost is less than \$10.00.

(5) When a registrant disposes of tangible assets of the campaign by sale in a regular commercial transaction for fair market value, the proceeds of the sale shall be reported as "other income" in the registrant's campaign finance reports.

History: Cr. Register, February, 1985, No. 350, eff. 3-1-85.

EIBd 1.60 Consulting services. (1) (a) Expenditures for consulting services made by a candidate's committee, political action committee, or political party committee on behalf of more than one candidate shall be attributable to each candidate in proportion to, and shall be reported to reflect, the benefit reasonably derived, except as provided in par. (c). This rule shall not apply to independent expenditures made under s. 11.06 (7), Stats., and s. EIBd 1.42.

(b) An authorized expenditure for consulting services made by a candidate, candidate's committee, political action committee, or political party committee on behalf of another candidate shall be reported as an in-kind contribution to the candidate on whose behalf the expenditure was made, except that expenditures made by political party committees on behalf of that party's presidential candidates shall not be reportable and shall not count against that party's state or local candidates' applicable contribution limits under s. 11.26 (9) (a), Stats., and spending limits under s. 11.31 (2), Stats., and s. EIBd 1.44, except as provided in par. (c).

(c) Exceptions to pars. (a) and (b). Expenditures for rent, personnel, overhead, general administrative, fund-raising, and other costs of political party committees, which costs are incurred in the ordinary course of its day-to-day operations, need not be attributed to individual candidates, unless these expenditures are made on behalf of a clearly identified candidate and the expenditure can be directly attributed to that candidate.

(2) If a candidate, candidate's committee, political action committee, or political party committee, for itself or another, hires a consultant to work during a campaign period as that term is defined in s. 11.25 (17), Stats., the amount paid or incurred shall be presumed to be an expenditure on behalf of a candidate or candidates who receive assistance from the consultant. This presumption may be rebutted.

(3) Any expenditures for consulting services shall be valued at the fair market value of the item or services at the time of the contribution.

History: Emerg. cr. eff. 6-1-86; cr. Register, November, 1986, No. 371, eff. 12-1-86.

EIBd 1.65 Opinion poll results. (1) The term "overall cost" as used in s. 11.06 (12) (b), Stats., means the value of the opinion poll or voter survey results, as defined in s. 11.06 (12) 4., Stats., as determined by the individual or committee which commissions the poll or survey.

(2) The transfer to a candidate or committee of the results of a poll or survey, other than by a sale, is an in-kind contribution to such candidate or committee and reportable on the candidate's or committee's campaign finance report due for the period during which the results are received.

(3) The value of the poll or survey equal to the applicable percentage of full value as provided in s. 11.06 (12) (b) through (f), Stats., is based on the reasonable costs incurred in conducting the poll or survey. These costs include the costs for staff salary or other compensation, rent, telephones, poll lists, telephone calls, and computer use and supplies, and other reasonable and necessary items associated with creating the opinion results as defined in s. 11.06 (12) (a) 3., Stats.

History: Emerg. cr. eff. 7-1-86; cr. Register, November, 1986, No. 371, eff. 12-1-86.

EIBd 1.655 Identification of the source of communications paid for with money raised for political purposes. (1) Definitions: as used in this rule:

(a) "Bona fide poll" means a poll which is conducted for the purpose of identifying, or collecting data on, voter attitudes and preferences and not for the purpose of expressly advocating the election, defeat, recall or retention of a clearly identified candidate or a particular vote at a referendum.

(b) "Communication" means any printed advertisement, billboard, handbill, sample ballot, television or radio advertisement, telephone call, and any other form of communication that may be

utilized by a registrant for the purpose of influencing the election or nomination of any individual to state or local office or for the purpose of influencing a particular vote at a referendum.

(bm) "Political party" has the meaning provided in s. 5.02 (13), Stats.

(c) "Political purpose" has the meaning provided in s. 11.01(16), Stats.

(d) "Registrant" has the meaning provided in s. 11.01(18m), Stats.

(e) "Source" means the individual who, or committee which, pays for, or the individual who takes responsibility for, a communication that is required, by s. 11.30, Stats., to be identified.

(2) Pursuant to s. 11.30(2)(a), Stats., any communication paid for with money that has been raised for political purposes must identify the source of that communication, subject to the following exceptions:

(a) The source identification requirements of s. 11.30, Stats., do not apply to communications paid for by an individual who, or a committee which, is not subject to the registration requirements of s. 11.05, Stats.

(b) A bona fide poll or survey under s. 11.30(5), Stats., concerning the support for or opposition to a candidate, political party, referendum or a position on issues, may be conducted without source identification unless the person being polled requests such information. If requested, the person conducting the poll shall disclose the name and address of the person making payment for the poll and, in the case of a registrant under s. 11.05, the name of the treasurer or the person making the payment.

(c) Incidental administrative communications need not identify their source if such communications are singular in nature and are not intended to communicate a political message.

(d) Communications for which reporting is not required under s. 11.06(2), Stats., are not required to identify their source.

(3) When making communications requiring source identification, disclosure is not required to be made at any particular place within or time during the communication. In the case of telephone calls, or other audio communications, the required disclosure may be made at any time prior to the end of the call or other communication.

(4) A registrant who conducts a bona fide poll must report the expense of conducting the poll on its campaign finance reports, whether or not the registrant is required to identify the source of that poll under s. 11.30(5), Stats., and this rule.

(5) If a political party makes a communication supporting the election of more than one candidate, the source identification for that communication shall be as follows:

"Paid for by the (name of party) Party as an in-kind contribution to the candidates named."

History: Cr. Register, September, 1996, No. 489, eff. 10-1-96; cr. (1) (bm) and (5), Register, April, 1998, No. 508, eff. 5-1-98.

EIBd 1.70 Travel reimbursements. (1) A candidate for or a person elected to a state or local office does not make an in-kind contribution to another candidate for a state or local office in another district when a candidate or election official travels to the district of the other candidate for political purposes. The candidate for or person elected to state or local office may be reimbursed from his or her personal campaign committee subject to the applicable spending limits of s. 11.31 (2), Stats., and s. EIBd 1.44 and is deemed to provide nonreportable volunteer services to the candidate in the other district.

(2) If the candidate or elected official is reimbursed by another individual, personal campaign committee, political action committee, or legislative campaign committee for travel, the reimbursement is a reportable contribution to the candidate.

(3) If the candidate or elected official is an officer or employee of a legislative campaign committee who travels on committee

business, the reimbursement is not a reportable contribution to the candidate or elected official, but is a reportable disbursement of the legislative campaign committee.

History: Emerg. cr. eff. 6-1-86; cr. Register, November, 1986, No. 371, eff. 12-1-86.

EIBd 1.75 Purchase of capital assets by campaign registrants. (1) In this section:

(a) "Capital asset" means any asset, purchased by, or contributed to, a campaign committee, which has a useful life greater than the campaign period in which the asset was purchased, received or otherwise acquired.

(b) "Non-political use" means any usage, by a registrant, for purposes other than those specified in s. 11.01 (16), Stats.

(c) "Political purposes" has the meaning provided in s. 11.01 (16), Stats.

(d) "Registrant" has the same meaning as provided in s. 11.01 (18m), Stats.

(2) No capital asset may be purchased with campaign funds by a registrant unless the asset will be used principally for political purposes.

(3) Any non-political use of a capital asset purchased with campaign funds shall be incidental.

(4) A capital asset purchased and owned by an individual for personal use may be leased by a campaign registrant for use for political purposes only.

(5) Any rent or reimbursement paid for the use of a capital asset, by a registrant, shall be comparable to the commercial rate paid for the lease or rent of a similar item.

(6) The cost of materials, supplies or other expenses incurred in the use of a capital asset for political purposes may be paid with campaign funds by a registrant.

(7) If campaign funds are used by a registrant to pay for the lease and service of a capital asset, the terms of the lease or other rental agreement, including those of a service or maintenance contract, shall be in writing.

History: Cr. Register, January, 1992, No. 433, eff. 2-1-92.

EIBd 1.85 Conduit registration and reporting requirements. (1) A conduit, as defined in s. 11.01 (5m), Stats., is required to register no later than the date of the initial transfer of a contribution to a candidate, personal campaign committee, legislative campaign committee, or political party committee, or within 5 days of the receipt of a contribution from a conduit member, whichever event occurs first.

(2) A conduit shall register with the filing officer as defined in s. 11.02, Stats., on the conduit registration statement, form EB-9.

(3) A conduit shall send to each candidate or committee at the time funds are transferred a letter identifying itself as a conduit, the name and address of the transferee, and listing the name and address of each contributor and the date and amount of each contribution.

(4) A conduit shall report to the transferee the full name and address, the occupation and the name and address of the principal place of employment, if any, of the contributor if the contributor's cumulative contributions exceed \$50 for the calendar year.

(5) A conduit shall file a campaign finance report, form EB-10, at the times specified in s. 11.20, Stats., except that the pre-primary or pre-election report is filed only when a contribution is made during that period. If the conduit has no reportable activity during the continuing report period, the conduit may report on the campaign finance report, short form, form EB-2a.

(6) A conduit shall file with its campaign finance report 2 copies of each letter of transmittal sent to each transferee during the reporting period.

(7) A conduit shall file with the filing officer a special report of late contribution, form EB-3, within 24 hours of making a transfer to a candidate or committee of more than \$500 in a single

amount or cumulatively received during the 15 day period before the primary or election.

History: Emerg. cr. eff. 7-1-86; cr. Register, November, 1986, No. 371, eff. 12-1-86; am. (1) and (4), Register, April, 1998, No. 508, eff. 5-1-98.

EIBd 1.855 Contributions from conduit accounts.

(1) No contribution may be made from a conduit member's account without the conduit member's authorization which is specific as to the amount of the contribution and as to the identity of the candidate who is to receive the contribution. The conduit member's authorization may be made in writing, or may be made orally if a contemporaneous written record of the oral authorization is made by the conduit administrator.

(2) A contribution from a conduit account shall be in the form of a check or other negotiable instrument made out to the named candidate or to the candidate's personal campaign committee, or to a legislative campaign committee, political party committee, or support committee under s. 11.18, Stats. A conduit may not make an in-kind contribution as defined in s. EIBd 1.20 (f) (e).

(3) A contribution from a conduit account shall be transferred to a candidate, a personal campaign or legislative campaign committee, or a political party or support committee, within 15 days of the conduit administrator's receipt of the member's authoriza-

tion.

History: Cr. Register, April, 1998, No. 508, eff. 5-1-98.

EIBd 1.95 Contributions of individuals under the age of 18. For purposes of campaign finance regulation under ch. 11, Stats., the contribution to a candidate for election or nomination to any of the offices specified in s. 11.26, Stats., of any individual less than 18 years of age at the time of contribution, shall be treated as follows:

(1) The contribution of individual contributors less than 14 years of age at the time of the contribution shall be treated as the contribution of the contributor's parents or legal guardians. If the contributor has more than one parent or one legal guardian, the contribution shall be attributed to each parent or each guardian in equal shares or in such shares as the parents or the guardians determine by written agreement.

(2) The contribution of individual contributors who are 14 years of age or older at the time of the contribution shall be treated for all purposes of campaign finance regulation under ch. 11, Stats., as the contribution of the individual contributor.

(3) This section shall not affect the determination of an individual's right or authority to make contributions from a multi-party account at a financial institution.

History: Cr. Register, January, 1992, No. 433, eff. 2-1-92.

