

1999 DRAFTING REQUEST

Bill

Received: 06/2/99

Received By: kuesejt

Wanted: 06/7/99

Identical to LRB:

For: Alice Clausing (608) 266-7745

By/Representing: Bill Wenzel

This file may be shown to any legislator: NO

Drafter: kuesejt

May Contact:

Alt. Drafters:

Subject: Elections - campaign finance

Extra Copies: RJM - 1

Pre Topic:

No specific pre topic given

Topic:

Campaign finance changes

Instructions:

Per SB-113 and LRBA0467, but substitute issue advocacy language from SB-111.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kuesejt 06/5/99	chanaman 06/7/99		_____			State
/1			haugeca 06/7/99	_____	lrb_docadmin 06/7/99	lrb_docadmin 06/8/99	

FE Sent For:

06-08-99

<END>

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12/1	kuesejt ds	CMM 1 6/6	CHWSP 5-10	AM JP 5-10			

FE Sent For:

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THE LEAGUE OF WOMEN VOTERS
122 State Street, Madison, Wisconsin 5

Post-It* Fax Note	7671	Date	6/2/99	# of pages	2-
To	JEFF L.	From	Bill W.		
Co./Dept.	LEB	Co.			
Phone #			Phone #		
Fax #			Fax #		

Statement to the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Regarding Campaign Finance Reform Proposals

June 1, 1999

LRB ~~2224~~ 3024/1

The League supports LRB ~~2224~~ ^{3024/1} entitled Impartial Justice which would provide almost full public financing for Supreme Court elections - \$100,000 in the primary and \$300,000 in the general election, a total of \$400,000.

These substantial public financing grants provide adequate funds for supreme court races. With only a small level of low individual contributions this bill accomplishes the job of controlling excessive campaign spending - which is the doorway to undue special interest influence. Most of all public financing levels the playing field - removing advantage for incumbents, the wealthy, and those with wealthy friends - and removes fund raising as the measure of qualification. This bill does not totally remove a role for individual/citizen support, but it does not require it except to qualify as the way to demonstrate support and viability as a candidate.

The League believes that it is ultimately important to have substantial public financing such as this for all offices, but, for now, we believe Supreme Court races are a good place to start. We should be able to have confidence that those holding the highest office in our justice system are totally free from outside special interest influence.

Comprehensive Campaign Finance Reform

The League would like to thank this committee for holding this hearing on campaign finance reform proposals. We commend all those in the Legislature who are involved in the many efforts being made this session toward meaningful and comprehensive campaign finance reform.

There are many provisions in the bills you are considering today which the League can wholeheartedly support. Passage of the best of these provisions would move Wisconsin well on the way to comprehensive campaign finance reform.

We strongly support a state commitment to public financing grants appropriated from general purpose revenues - 33.3% of the spending limit in SB 113 and 50% in SB 111. Although the League would want to see an even higher public financing level than either of these, we affirm this step which makes room on the playing field for viable qualified candidates.

Spending limits/levels which are mandated for those accepting the public grant, and which have not been adjusted in recent years for cost of living increases, need to be increased from current

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Your contributions, unless given to the Education Fund, are not tax deductible for charitable purposes.

levels but not excessively. The levels in SB 113 are more than adequate given recent average spending levels.

Current individual contribution limits need to be lowered as is done in SB 111. The League believes current limits are too high because they allow undue special interest influence to be channeled through individual contributions. This can be a greater problem relative to the portion of total spending available for individual contributions and whether conduit transfers continue to be treated as individual contributions.

Conduits need to be treated as PACs (as in SB 111) because they are special interest efforts, and LCCs need to be treated as PACs (as in SB 113) because they currently are a funnel for excessive laundered special interest money which is difficult to trace. With these changes there is an appropriate place for a portion of committee and party money in campaign spending levels.

Keeping both individual contributions and the portion available for committee contributions low will discourage candidates from contemplating high spending campaigns, and will thus, encourage candidates to apply for the grants.

We highly commend the provisions in SB 113 which would match with public funds the amounts of any independent spending against the candidate, spending by opponents over the spending limit, and party contributions over the limit.

A much needed provision in SB111 and SB 113 would clearly define issue ads. It's necessary that any ads which mention candidates or political parties within 60 days of an election be defined as independent expenditures, the spending entity be registered as a political committee and the sources and uses of the funds be limited and reportable as independent spending.

Again, the League is pleased that these comprehensive bills are being considered. We hope that there is enough agreement among them to ensure that a substantive bill can emerge from the process in this session.

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1 11.61 (1) (d) and 20.855 (4) (bb) of the statutes; **relating to:** campaign
 2 financing, providing exemptions from emergency rule procedures, granting
 3 rule-making authority, making appropriations and providing penalties.

Analysis by the Legislative Reference Bureau

This bill makes numerous changes in the campaign finance law and imposes a tax on lobbying expenditures. Significant changes include:

Filing of campaign finance reports

Currently, a committee making contributions or a candidate or other individual or committee accepting contributions, making disbursements (expenditures) or incurring obligations in support of or opposition to a candidate is generally required to file a report no later than the eighth day before a primary or election at which the candidate seeks nomination or election to office. The report must disclose contributions made or accepted, disbursements made and obligations incurred through the 14th day prior to the primary or election.

Currently, if a candidate for state office receives one or more contributions from a single contributor aggregating \$500 or more during the 14-day period preceding an election, the candidate must report to the elections board the information currently required to be disclosed pertaining to contributions received by the candidate no later than 24 hours following receipt of any such contribution or contributions.

This bill requires each candidate at the general or a special election for the office of governor, lieutenant governor, attorney general, secretary of state, justice of the supreme court, state senator or representative to the assembly who does not accept a grant from the Wisconsin election campaign fund (see below) and who intends to make any disbursement or who incurs or intends to incur any obligation to make a disbursement after the candidate has made disbursements in his or her campaign exceeding the amount of the disbursement limitation for the office that the candidate seeks, to report to the elections board, no later than 21 days prior to the activity intended to be funded by the disbursement or obligation, the information that is currently required to be reported pertaining to disbursements made and obligations incurred by candidates.

The bill similarly requires each committee that intends to make any disbursement or that incurs or intends to incur any obligation to make a disbursement for the purpose of advocating the election or defeat of a candidate for a major state office at the general election or a special election independently of any candidate who is supported or whose opponent is opposed to report to the elections board, no later than 21 days prior to the activity intended to be funded by the disbursement or obligation, specifying the name of each candidate who is supported or whose opponent is opposed and the total amount of disbursements to be made and obligations to be incurred for that purpose.

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In addition, the bill provides that if a candidate for a major state office at the general or a special election does not enter into an agreement to accept a public grant in return for abiding by disbursement limitations and contribution restrictions, the candidate must report to the elections board all information currently required to be disclosed pertaining to any contributions received by the candidate no later than 24 hours following receipt of any contribution or contributions after that candidate receives total contributions equal to more than the following amounts during his or her campaign:

1. For candidates for the offices of governor and lieutenant governor jointly, \$500,000 from all committees or \$1,500,000 from all contributors.
2. For a candidate for the office of attorney general, \$100,000 from all committees or \$300,000 from all contributors.
3. For a candidate for the office of secretary of state, state treasurer or state superintendent of public instruction, \$50,000 from all committees or \$150,000 from all contributors.
4. For a candidate for the office of justice, \$225,000 from all contributors.
5. For a candidate for the office of state senator, \$25,000 from all committees or \$75,000 from all contributors.
6. For a candidate for the office of representative to the assembly, \$12,500 from all committees or \$37,500 from all contributors.

Under the bill, these amounts are subject to a biennial cost-of-living adjustment beginning in 2002, in accordance with a formula tied to the "consumer price index" determined by the U.S. department of labor.

~~The bill directs the elections board, within 24 hours of receipt of a copy of any of the new reports filed under the bill, to mail or, if possible, transmit a copy of the report to all candidates whose names appear on the ballot in opposition to the candidate on behalf of whom the report is filed or to all candidates whose names appear on the ballot in opposition to the candidate who benefits from any proposed disbursement or any actual or proposed obligation described in such a report.~~

~~**Mass media activities**~~

~~Currently, individuals who accept contributions, organizations that make or accept contributions, and individuals who or organizations that incur obligations or make disbursements for the purpose of influencing an election for state or local office are generally required to register with the appropriate filing officer and to file financial reports with that officer, regardless of whether they act in conjunction with or independently of any candidate who is supported or opposed.~~

~~This bill requires each individual who and organization that makes a communication by means of a newspaper, periodical, commercial billboard or radio or television station, other than a communication by a corporation, cooperative or nonpolitical voluntary association limited to its members, shareholders or subscribers, during the period beginning on the 60th day preceding an election and ending on the date of that election which includes the name or likeness of a candidate at that election or the name or likeness of a political party to register with the appropriate filing officer and to file financial reports with that officer to the same~~

(END OF INSERT 2A)

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of money received from a conduit which is properly identified and reported is considered to be a contribution received from the original contributor. Contributions received by a candidate for state office from an individual through a conduit may be used to qualify for a grant from the Wisconsin election-campaign fund.

This bill requires the campaign finance reports filed by candidates to identify any conduit from whom a contribution is received, as well as the original contributor.

The bill also treats conduits in the same manner as "political action committees" by:

1. Not allowing contributions made by an individual through a conduit to be used to qualify for a grant from the Wisconsin election campaign fund.

2. Subjecting contributions from conduits to the same limitations that currently apply to the amount of contributions that a candidate may accept from any committee other than a political party or legislative campaign committee and to the new limitation upon receipt of aggregate contributions from committees imposed under the bill.

~~Mass media and telephoning activities~~

Currently, individuals who accept contributions, ^{that} organizations ~~which~~ ^{that} make or accept contributions, or individuals who or organizations ~~which~~ incur obligations or make disbursements for the purpose of influencing an election for state or local office are generally required to register with the appropriate filing officer and to file financial reports with that officer, regardless of whether they act in conjunction with or independently of any candidate who is supported or opposed. Currently, when a person is alleged to have violated registration and reporting requirements, the state has the burden of proving that the violation occurred.

This bill provides that, whenever any person publishes, disseminates or broadcasts any communication that includes a reference to a candidate for an office to be filled at an election, during the 60-day period preceding that election or during the 30-day period preceding any primary for that election, and the communication is substantially directed toward the electorate for that election, it is presumed that the communication is made for the purpose of influencing the election or nomination for election of that candidate, unless the person making the communication establishes, by a preponderance of the evidence, that the communication was not made for that purpose.

(END OF INSERT YA)

~~Wisconsin election campaign funds~~

I. SOURCES AND USES OF FUNDS

Under current law, the Wisconsin election campaign fund is financed through an individual income tax "checkoff". Every individual filing a state income tax return who has a tax liability or is entitled to a tax refund may direct that \$1 of general purpose revenue be transferred to the fund. Individuals filing a joint return may separately choose whether to direct that the \$1 transfer be made. All moneys transferred to the fund are placed in accounts for specified state offices, and candidates for those offices at the general or a special election may qualify for grants from the fund to be used for specified campaign expenses. No moneys in the fund may be used for any other purpose. Grants at special elections are funded by reallocating

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~~extent as currently required of individuals who and organizations that engage in activity for the purpose of influencing elections.~~

~~Disbursement Limitations~~

Under current law, disbursement (expenditure) levels are specified for candidates for various state and local offices. These levels become a binding limitation upon any candidate for state office who accepts a state grant from the Wisconsin election campaign fund or who agrees to be bound by the limitation, unless the candidate is opposed by a major opponent who could have qualified for a grant but who declines to accept one and declines to file an affidavit of voluntary compliance with disbursement and contribution limitations. Under current law, the disbursement limitations apply to a candidate's entire primary and election campaign combined. Additionally, the disbursement levels for candidates for the offices of state senator and representative to the assembly are subdivided between the primary and election campaign periods in such a way that only about 60% of the total applicable disbursement level for either office may be allocated by a candidate to either the primary or the election campaign period.

This bill:

1. Eliminates disbursement levels and limitations applicable to candidates for state office, except the offices of court of appeals judge, circuit judge and district attorney, on or before the date of the primary election for those offices.
2. Revises the current disbursement levels applicable to candidates for the offices shown in the following chart:

<i>Office</i>	<i>Current Level</i>	<i>Proposed Level</i>
Governor	\$1,078,200	[\$2,000,000
Lieutenant governor	323,475	for both offices]
Attorney general	539,000	400,000 <i>600,000</i>
Supreme court justice	215,625	300,000
Secretary of state	215,625	200,000
State treasurer	215,625	200,000
State superintendent <i>of public instruction</i>	215,625	200,000
State senator	34,500	100,000
Representative to the assembly	17,250	50,000

3. Creates a biennial cost-of-living adjustment that causes the statutory disbursement levels to be adjusted biennially, beginning in 2002, in accordance with a formula tied to the "consumer price index" determined by the U.S. department of labor.

4. Deletes current law that permits a candidate who does not accept a grant to continue to bind an opponent to disbursement and contribution limitations by filing an affidavit of voluntary compliance.

5. Increases the disbursement limitation of any candidate who accepts a grant *Public* from the Wisconsin election campaign fund by 1) an amount equal to the amount of any independent disbursements that are made to oppose that candidate or to support

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that candidate's opponent; 2) the total amount of obligations incurred or proposed to be incurred and disbursements proposed to be made that have not previously been reported as obligations by any opposing candidate who does not accept a grant ~~from the Wisconsin election campaign fund~~ exceeding the amount of the disbursement limitation for the office that the candidate seeks; and 3) the total amount of contributions accepted by opposing candidates above the level for which 24-hour reports are required. (END OF INSERT 4B)

Treatment of conduits

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Currently, if an individual or organization receives a political contribution consisting of money and transfers the contribution to another individual or organization without exercising discretion as to the amount to be transferred and the individual to whom or the organization to which the transfer is made, the contribution is considered to be made by the original contributor for purposes of reporting by the ultimate recipient. The contribution is also treated as an individual contribution for purposes of determining contribution limitations and qualifying contributions for public grants. The individual or organization making the transfer is called a "conduit" under the law. In most cases, a conduit is required to register and file campaign finance reports unless the conduit does not transfer any contributions to candidates or to personal campaign, legislative campaign or political party committees.

This bill treats a contribution of money transferred by a conduit as a contribution from the conduit rather than from the individual contributor for purposes of reporting by the ultimate recipient, and for purposes of determining adherence to contribution limitations and qualifying contributions for public grants. Under the bill, conduit contributions made by a committee are included within the aggregate limitation upon contributions that may be received from committees (see below). These conduit contributions may not be used to qualify for a public grant.

Contribution limitations

Current law specifies limitations on the maximum amount of contributions that may be given to and accepted by a candidate for state or local office. Current law also limits the total contributions that a candidate for state or local office may accept from all political committees, including political party and legislative campaign committees, and from the Wisconsin election campaign fund to 65% of the value of the statutory disbursement level specified for the office that the candidate seeks. The total amount that a candidate may accept from committees other than political party and legislative campaign committees and from the Wisconsin election campaign fund is limited to 45% of that disbursement level.

This bill changes contribution limitations applicable to individuals ~~and committees~~ making contributions to candidates for a major state office (governor, lieutenant governor, secretary of state, state treasurer, attorney general, state superintendent of public instruction, justice of the supreme court, state senator or representative to the assembly) per campaign, as follows:



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office

Governor, Lieutenant Governor, Secretary of State, State Treasurer, Attorney General, State Superintendent of Public Instruction, Justice of the Supreme Court

	<u>Current Limit</u>	<u>Proposed Limit</u>
Individual or committee making contributions to candidate for state senator	\$ 1,000	\$ 500
Individual or committee making contributions to candidate for representative to the assembly	\$ 500	\$ 250
Individual making contributions to candidate for a statewide office	\$10,000	\$1,000
Committee making contributions to candidate for a statewide office	4% of candidate's disbursement level	\$1,000

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The bill also ~~deletes~~ the current aggregate limitations on contributions that a candidate for a major state office may receive from committees and instead imposes an aggregate contribution limitation on the total amount or value of contributions that a candidate who accepts a grant may accept from all committees, including political party and legislative campaign committees, during the entire campaign of the candidate, or if the candidate has an opponent for the nomination of his or her party at a primary election, after the date of the primary election, as follows:

1. For candidates for the offices of governor and lieutenant governor jointly, \$500,000.
2. For a candidate for the office of attorney general, \$100,000.
3. For a candidate for the office of secretary of state, state treasurer or state superintendent, \$50,000.
4. For a candidate for the office of state senator, \$25,000.
5. For a candidate for the office of representative to the assembly, \$12,500.

In addition, the bill imposes an aggregate contribution limitation on the total amount or value of contributions that a candidate who accepts a grant may accept from all individuals, including contributions by an individual to his or her own campaign, during the entire campaign of the candidate, as follows:

1. For candidates for the offices of governor and lieutenant governor jointly, \$500,000.
2. For a candidate for the office of attorney general, ~~\$100,000~~ *\$150,000*
3. For a candidate for the office of justice of the supreme court, \$75,000.
4. For a candidate for the office of secretary of state, state treasurer or state superintendent of public instruction, \$50,000.
5. For a candidate for the office of state senator, \$25,000.
6. For a candidate for the office of representative to the assembly, \$12,500.

Under the bill, the aggregate contribution limitations are subject to a biennial cost-of-living adjustment, beginning in 2002, in accordance with a formula tied to the "consumer price index" determined by the U.S. department of labor.

Other contribution restrictions

This bill prohibits every candidate for a major state office (governor, lieutenant governor, attorney general, secretary of state, state treasurer, superintendent of



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public instruction or justice of the supreme court) from accepting any contribution from a special interest ("political action") committee during the period beginning on the 30th day preceding any election other than a primary election and ending on the date of that election. The bill also prohibits every such candidate from accepting any contribution during the period beginning on the tenth day preceding any election other than a primary election and ending on the date of that election.

Wisconsin election campaign fund

I. SOURCES AND USES OF FUNDS

Under current law, the Wisconsin election campaign fund is financed through an individual income tax "checkoff". Every individual filing a state income tax return who has a tax liability or is entitled to a tax refund may direct that \$1 of general purpose revenue be transferred to the fund. Individuals filing a joint return may separately choose whether to direct that the \$1 transfer be made. All moneys transferred to the fund are placed in accounts for specified state offices, and candidates for those offices at the general or a special election may qualify for grants from the fund to be used for specified campaign expenses. No moneys in the fund may be used for any other purpose. Grants at special elections are funded by reallocating moneys set aside to provide grants to candidates at the general election, to the extent that moneys are available.

(END OF INSERT 6A)

~~This bill deletes the checkoff procedure and provides, instead, for the revenue to the Wisconsin election campaign fund to be raised by transferring general purpose revenue to the fund, as needed.~~

~~**II. GRANT ELIGIBILITY
REQUIREMENTS AND AMOUNTS**~~

Under current law, public financing from the Wisconsin election campaign fund is available to eligible candidates for the offices of state senator, representative to the assembly, governor, lieutenant governor, attorney general, state treasurer, secretary of state, justice of the supreme court and superintendent of public instruction. To receive a grant, a candidate must file an application with the state elections board no later than the deadline for filing nomination papers. Following the primary election or the date on which a primary would be held, if required, the board determines whether a candidate who applies for a grant meets the following eligibility requirements:

1. If the candidate seeks a partisan state office at a general election, the candidate must have received at least six percent of the total votes cast in the primary and won the primary. If the candidate seeks a partisan state office at a special election, the candidate must either: a) appear on the ballot or in the column of a political party whose candidate for the same office at the preceding general election received at least six percent of the vote; or b) receive at least six percent of the votes cast at the special election.
2. The candidate must have an opponent in the election.
3. The candidate must receive, during a specified time period, a specified amount through contributions from individuals of \$100 or less. For a candidate for the office of governor, lieutenant governor, secretary of state, state treasurer, attorney general, justice of the supreme court or superintendent of public

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instruction, the amount is five percent of the authorized disbursement level for the office that the candidate seeks. For a candidate for the office of state senator or representative to the assembly, the amount is ten percent of the authorized disbursement level for the office that the candidate seeks.

Under current law, a candidate for any office who accepts a grant must comply with statutorily prescribed contribution and disbursement limitations, unless one or more of the candidate's opponents who receive at least six percent of the votes cast for all candidates for that office at a partisan primary, if a primary was held, do not accept a grant and do not voluntarily comply with the contribution and disbursement limitations for that office. The maximum grant that a candidate may receive is the amount that, when added to all other contributions accepted from sources other than individuals, political party committees and legislative campaign committees, is equal to 45% of the authorized disbursement level for the office that the candidate seeks, if there are sufficient moneys in the Wisconsin election campaign fund to finance the full amount of grants for which candidates qualify.

This bill requires a candidate for any office who desires to qualify for a grant from the fund to receive contributions from individuals who are residents of this state in amounts of \$100 or less in the following total amounts:

- 1. For candidates for the offices of governor and lieutenant governor jointly, \$80,000.
- 2. For a candidate for the office of attorney general, ~~\$16,000~~ ^{\$24,000}
- 3. For a candidate for the office of justice of the supreme court, \$12,000.
- 4. For a candidate for the office of secretary of state, state treasurer or state superintendent of public instruction, \$8,000.
- 5. For a candidate for the office of state senator, \$4,000.
- 6. For a candidate for the office of representative to the assembly, \$2,000.

In addition, the bill requires a candidate for the office of justice of the supreme court who seeks a grant to agree not to accept any contributions from special interest ("political action") committees, political party committees or ~~legislative campaign committees~~.

The bill revises grant amounts to the following, irrespective of contributions received from other sources:

- 1. For candidates for the office of governor and lieutenant governor jointly, ~~\$1,000,000~~ ^{\$1,500,000}
- 2. For a candidate for the office of attorney general, ~~\$200,000~~ ^{\$150,000}
- 3. For a candidate for the office of justice of the supreme court, \$225,000.
- 4. For a candidate for the office of secretary of state, state treasurer or superintendent of public instruction, ~~\$100,000~~ ^{\$150,000}
- 5. For a candidate for the office of state senator, ~~\$50,000~~ ^{\$75,000}
- 6. For a candidate for the office of representative to the assembly, ~~\$25,000~~ ^{\$37,500}

In addition to these amounts, the bill provides that a candidate who accepts a grant shall receive an additional grant in an amount equal to 1) the amount of any independent disbursements that are made to oppose that candidate or to support that candidate's opponent; 2) the total amount of obligations incurred or proposed to be incurred and disbursements proposed to be made that have not previously been

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reported as obligations by an opposing candidate who does not accept a grant exceeding the amount of the disbursement limitation for the office that the candidate seeks; and 3) the total amount of contributions accepted by opposing candidates above the level for which 24-hour reports are required.

Under the bill, qualifying amounts and grant amounts are subject to a biennial cost-of-living adjustment, beginning in 2002, in accordance with a formula tied to the "consumer price index" determined by the U.S. department of labor.

The bill also requires each candidate, in order to qualify to receive a grant, to file with the elections board, no later than five days before the deadline for filing an application to receive a grant, an application to receive a grant or a statement that the candidate intends to qualify to receive a grant.

Penalties for violations

In addition, the bill requires each candidate, in order to receive a grant, to file with the elections board a specified number of signatures of electors of the jurisdiction or district in which the candidate seeks office that have not been

Currently, violators of the campaign finance law are subject to a forfeiture (civil penalty) of not more than \$500 for each violation, except that violators of contribution limitations are subject to a forfeiture of not more than treble the amount unlawfully contributed. In addition, currently, any person who is delinquent in filing a report is subject to a forfeiture of not more than \$50 or one percent of the annual salary of the office for which a candidate is being supported or opposed, whichever is greater, for each day of delinquency. Currently, any person who makes an unlawful contribution is subject to a forfeiture of treble the amount of the unlawful contribution.

Filed by an opposing candidate for the same office.

Currently, whoever intentionally violates certain provisions of the campaign finance law, such as registration requirements, contribution limitations, the prohibition against making contributions in the name of another person, the prohibition against using contributions for most nonpolitical purposes and the prohibition against filing false reports and statements may be fined not more than \$1,000 or imprisoned for not more than six months, or both, if the violation does not exceed \$100 in amount or value, and may be fined not more than \$10,000 or imprisoned for not more than three years, or both, if the violation exceeds \$100 in amount or value.

This bill provides that if any candidate or other individual or committee accepts or transfers a contribution, makes a disbursement or incurs an obligation to make a disbursement for the purpose of supporting or opposing a candidate for a major state office (governor, lieutenant governor, attorney general, secretary of state, state treasurer, state superintendent of public instruction or justice of the supreme court) or for the purpose of making certain communications ~~by means of communications media~~ (see above) without first registering and reporting to the extent required under the bill, the offender must pay a forfeiture (civil penalty) of \$500 for each day of violation. The bill also provides that if any of these individuals or committees accepts or transfers one or more contributions, makes one or more disbursements or incurs one or more obligations to make disbursements for such a purpose in an amount that is more or less than the amount reported by that individual or committee:

relating to candidate

1. By more than 5% but not more than 10%, the individual or committee must forfeit four times the amount of the difference.

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relating to candidates

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2. By more than 10%, the individual or committee must forfeit six times the amount of the difference.

The bill also imposes a new penalty upon any person who, with intent to conceal or deceive, accepts or transfers a contribution, makes a disbursement or incurs an obligation to make a disbursement for the purpose of supporting or opposing a candidate for a major state office or for the purpose of making certain communications ~~by means of communication media~~ (see above) without registering or reporting to the extent required under the bill, consisting of a fine of not more than \$10,000 or imprisonment for not more than five years, or both (equivalent to a class E felony).

(END OF INSERT 7A)

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 7.08 (2) (c) and (cm) of the statutes are amended to read:

7.08 (2) (c) As soon as possible after the canvass of the spring and September primary votes, but no later than the first Tuesday in March and the 4th Tuesday in September, transmit to the state treasurer a certified list of all eligible candidates for state office who have filed applications under s. 11.50 (2) and whom ~~who~~ the board determines to be eligible to receive payments from the Wisconsin election campaign fund. ~~The board shall also transmit a similar list of candidates who the board determines to be eligible to receive a grant under s. 11.50 (9) (b) or (ba) within 3 days after any candidate qualifies to receive such a grant.~~ Each list shall contain each candidate's name, the mailing address indicated upon the candidate's registration form, the office for which the individual is a candidate and the party or principle which he or she represents, if any.

(cm) As soon as possible after the canvass of a special primary, or the date that the primary would be held, if required, transmit to the state treasurer a certified list of all eligible candidates for state office who have filed applications under s. 11.50 (2)



~~SENATE AMENDMENT,
TO 1999 SENATE BILL 113~~

1 At the locations indicated, amend the bill as follows:

2 ~~1. Page 13, line 11: delete lines 11 to 16 and substitute:~~

JWS13-10

3 ~~SECTION 6b. 11.01 (5m) of the statutes is repealed.~~

4 ~~2. Page 13, line 22: delete the material beginning with "a reference" and~~
5 ending with "party." on line 24 and substitute "the name or likeness of a candidate
6 whose name is certified under s. 7.08 (2) (a) or 8.50 (1) (d) to appear on the ballot at
7 that election or the name or likeness of a political party."

8 ~~3. Page 14, line 5: delete lines 5 and 6 and substitute:~~

9 ~~SECTION 10m. 11.05 (3) (n) of the statutes is amended to read:~~

10 11.05 (3) (n) In the case of a labor organization, or separate segregated fund
11 under s. 11.38 (1) (a) 2. or conduit established by a labor organization, a statement
12 as to whether the organization is incorporated, and if so, the date of incorporation
13 and whether or not such incorporation is under ch. 181.

JWS
14-5

(END OF INSERT 14-5)

1 ~~4. Page 14, line 8: delete lines 8 to 14 and substitute:~~

2 ~~SECTION ~~11a~~ 11.05 (9) (a) of the statutes is renumbered 11.05 (9).~~

7NS14-8

3 ~~SECTION ~~11d~~ 11.05 (9) (b) of the statutes is repealed.~~

4 ~~5. Page 16, line 2 after that line insert:~~

5 ~~SECTION ~~11a~~ 11.06 (11) of the statutes is repealed.~~

7NS16-2

6 ~~6. Page 16, line 13: delete "(2s) (2t)".~~

7 ~~7. Page 17, line 5 delete "If Except as provided in par. (b), if" and substitute~~

8 ~~"If".~~

9 ~~8. Page 17, line 22: delete the material beginning with that line and ending~~

10 ~~with page 20, line 24, and substitute:~~

11 ~~SECTION ~~19b~~ 11.12 (6) (c) and (d) of the statutes are created to read:~~

12 11.12 (6) (c) 1. If any committee identified under s. 11.05 (3) (c) intends to make

7NS
17-22

13 any disbursement or incurs or intends to incur any obligation to make a

14 disbursement for the purpose of advocating the election or defeat of a clearly

15 identified candidate for a state office specified in s. 11.31 (1) (a) to (f) at the general

16 or a special election, or any such candidate who seeks a nomination for such an office

17 at a primary election, without cooperation or consultation with a candidate or agent

18 or authorized committee of a candidate who is supported or whose opponent is

19 opposed, and not in concert with or at the request or suggestion of such a candidate,

20 agent or committee, the committee shall, no later than 21 days prior to the activity

21 intended to be funded by the disbursement or obligation, report to the board in such

22 manner as the board may prescribe, the name of each candidate who is supported or

23 whose opponent is opposed and the total amount of disbursements to be made and



1 obligations incurred or to be incurred for such a purpose in support or opposition to
2 that candidate.

3 2. A committee which files a report under this paragraph concerning a
4 disbursement is not required to file a report pertaining to the same disbursement
5 under par. (a).

6 (d) All information reported by a registrant under this subsection shall also be
7 included in the next regular report of the registrant under s. 11.20.

8 SECTION ~~20b~~ 11.12 (7) of the statutes is created to read:

9 11.12 (7) (a) If a candidate at the general or a special election for a state office
10 specified in s. 11.31 (1) (a) to (f) does not accept a grant under s. 11.50, that candidate
11 or the candidate's personal campaign committee shall report to the board the
12 information specified in s. 11.06 (1) pertaining to all contributions received no later
13 than 24 hours after receipt of any contribution, in such manner as the board may
14 prescribe, if the candidate or personal campaign committee receives, during the
15 campaign of that candidate, as defined in s. 11.26 (17), total contributions that equal
16 more than the following amount or value, as adjusted under par. (d):

17 1. For candidates for the offices of governor and lieutenant governor jointly,
18 \$500,000 from all committees or \$1,500,000 from all contributors.

19 2. For a candidate for the office of attorney general, \$100,000 from all
20 committees or \$300,000 from all contributors.

21 3. For a candidate for the office of justice, \$225,000 from all contributors.

22 4. For a candidate for the office of secretary of state, state treasurer or state
23 superintendent, \$50,000 from all committees or \$150,000 from all contributors.

24 5. For a candidate for the office of state senator, \$25,000 from all committees
25 or \$75,000 from all contributors.

*PWS
17-22*

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JWS
17-22

6. For a candidate for the office of representative to the assembly, \$12,500 from all committees or \$37,500 from all contributors.

(b) The first report filed by a candidate or personal campaign committee under par. (a) during any campaign shall include the information required under par. (a) for all contributions received since the closing date for the preceding report filed by that candidate or committee as provided in s. 11.20 (8).

(END OF LAISENT)

9. Page 21, line 18: after that line insert:

SECTION 20m. 11.12 (8) of the statutes is created to read:

11.12 (8) If a candidate at the general or a special election for a state office specified in s. 11.31 (1) (a) to (f) who does not accept a grant under s. 11.50 intends to make any disbursement or incurs or intends to incur an obligation to make any disbursement after that candidate has made disbursements during his or her campaign, as defined in s. 11.31 (7), exceeding the amount specified in s. 11.31 (1) (a) to (f), as adjusted under s. 11.31 (9), for the office which the candidate seeks, that candidate or the candidate's personal campaign committee shall, no later than 21 days prior to the activity intended to be funded by the disbursement or obligation, report to the board the information required under s. 11.06 (1) in such manner as the board may prescribe. The report shall include the same information concerning any proposed disbursement or obligation that is required to be reported for a disbursement that has been made or an obligation that has been incurred. The information required under s. 11.06 (1) shall also be included in the next regular report of the candidate or committee under s. 11.20.

JWS
21-18

(END OF LAISENT 21-18)

10. Page 22, line 23: delete the material beginning with that line and ending with page 23, line 10.

1 **11.** Page 24, line 6: delete "(2s), (2t)."

2 **12.** Page 24, line 8: delete lines 8 to 12.

3 **13.** Page 25, line 2: delete "(2t)."

4 **14.** Page 25, line 9: after that line insert:

5 ~~SECTION 33g.~~ 11.24 (1m) of the statutes is repealed.

6 **SECTION 33r.** 11.24 (1s) of the statutes is created to read:

JWS

25-9

7 11.24 (1s) No candidate for a state office specified in s. 11.31 (1) (a) to (f) or
8 personal campaign committee of such a candidate at any election other than a
9 primary election may receive and accept any contribution from a committee
10 identified as a special interest committee under s. 11.05 (3) (c) during the period
11 beginning on the 30th day preceding that election and ending on the date of that
12 election.

13 **15.** Page 25, line 18: after "from a" insert "political party committee or".

14 **16.** Page 25, line 20: after "No" insert "political party committee or".

15 **17.** Page 26, line 3: after that line insert:

16 ~~SECTION 36L.~~ 11.26 (1) (a) of the statutes is amended to read:

17 11.26 (1) (a) Candidates for governor, lieutenant governor, secretary of state,
18 state treasurer, attorney general, state superintendent or justice, \$10,000 ~~\$1,000~~.

JWS
26-3

19 ~~SECTION 36m.~~ 11.26 (1) (b) of the statutes is amended to read:

20 11.26 (1) (b) Candidates for state senator, \$1,000 ~~\$500~~.

21 ~~SECTION 36n.~~ 11.26 (1) (c) of the statutes is amended to read:

22 11.26 (1) (c) Candidates for representative to the assembly, \$500 ~~\$250~~.

(END OF INSERT 26-3)

1 **18.** Page 26, line 5: delete the material beginning with that line and ending
2 with page 27, line 2, and substitute:

3 "11.26 (1m) No individual who is a candidate for state office and who files a
4 sworn statement and application to receive a grant from the ~~Wisconsin election~~
5 ~~campaign~~ ^{clean government} fund may receive and accept from individuals more than the amount or
6 value of contributions provided in this subsection for the office for which he or she
7 is a candidate during any campaign, including contributions from the individual to
8 his or her own campaign:

9 (a) For candidates for the offices of governor and lieutenant governor jointly,
10 \$500,000.

11 (b) For a candidate for the office of attorney general, \$150,000.

12 (c) For a candidate for the office of justice, \$75,000.

13 (d) For a candidate for the office of secretary of state, state treasurer or state
14 superintendent, \$50,000.

15 (e) For a candidate for the office of state senator, \$25,000.

16 (f) For a candidate for the office of representative to the assembly, \$12,500.

17 **19.** Page 27, line 16: delete "~~No Except as authorized in sub. (10), no~~" and
18 substitute "No".

19 **20.** Page 28, line 9: delete the material beginning with that line and ending
20 with page 29, line 18, and substitute:

21 "SECTION 42d. 11.26 (9) (a) of the statutes is amended to read:

22 11.26 (9) (a) (intro.) No individual who is a candidate for state ~~or~~ office and who
23 does not receive a grant from the clean government fund and no individual who is
24 a candidate for local office may receive and accept more than 65% of the value of the

RS
26-5

RS
28-9

1 total disbursement level determined under s. 11.31 (1), as adjusted under s. 11.31 (9),
 2 for the office for which he or she is a candidate during any ~~primary and election~~
 3 campaign ~~combined~~ from all committees subject to a filing requirement, including
 4 political party ~~and legislative campaign~~ committees.

5 SECTION ~~40d~~. 11.26 (9) (b) of the statutes is amended to read:

6 11.26 (9) (b) No individual who is a candidate for state ~~or office and who does~~
 7 not receive a grant from the clean government fund and no individual who is a
 8 candidate for local office may receive and accept more than 45% of the value of the
 9 total disbursement level determined under s. 11.31 (1), as adjusted under s. 11.31 (9),
 10 for the office for which he or she is a candidate during any primary and election
 11 campaign combined from all committees other than political party ~~and legislative~~
 12 campaign committees subject to a filing requirement.

*Pass
28-9*

(END OF INSERT 28-9)

13 **21.** Page 30, line 2: delete "renumbered 11.26 (10) (a) (intro.) and".

14 **22.** Page 30, line 4: delete "(intro.) ~~No~~ Except as provided in par. (b), no" and
 15 substitute "No".

16 **23.** Page 30, line 7: delete "200% of" and substitute "200% of".

17 **24.** Page 30, line 7: delete "sub." and substitute "sub.". ~~24.~~

18 **25.** Page 30, line 8: delete "~~(1)~~ this subsection" and substitute "(1)".

19 **26.** Page 30, line 12: delete the material beginning with "The" and ending with
 20 "campaign." on line 16. ~~26.~~

21 **27.** Page 30, line 24: delete the material beginning with "Except" and ending
 22 with "is:" on line 25. ~~27.~~

23 **28.** Page 31, line 1: delete lines 1 to 14. ~~28.~~

1 **29.** Page 31, line 19: delete "sub. (1m), (9) (a) and (10) (a)" and substitute
2 "subs. (1m) and (10)".

3 **30.** Page 31, line 25: delete "sub (1m), (9) (a)" and substitute "subs. (1m)".

4 **31.** Page 32, line 8: after that line insert:

5 ~~"SECTION 56m. 11.26 (12m) of the statutes is repealed."~~

21532-8

6 **32.** Page 32, line 10: delete "Except as provided in sub. (9), contributions" and
7 substitute "~~Except as provided in sub. (9), contributions~~ Contributions".

8 **33.** Page 32, line 16: delete "except as otherwise provided in subs. (1m), (9)
9 and (10)".

10 **34.** Page 32, line 22: delete "and (d) of the statutes are" and substitute "of the
11 statutes is"

12 **35.** Page 32, line 23: delete "\$400,000" and substitute "\$600,000".

13 **36.** Page 32, line 24: before that line insert:

14 ~~"SECTION 56g. 11.31 (1) (cm) of the statutes is created to read:~~

15 11.31 (1) (cm) Candidates for justice, \$300,000.

FNS
32-24

16 ~~SECTION 56r. 11.31 (1) (d) of the statutes is amended to read:~~

17 11.31 (1) ~~(d)~~ (END OF INSERT 32-24)

18 **37.** Page 33, line 4: delete "\$150,000" and substitute "\$100,000".

19 **38.** Page 33, line 7: delete "\$75,000" and substitute "\$50,000".

20 **39.** Page 34, line 4: delete ", (ba) or (bb)" and substitute "or (ba)".

21 **40.** Page 34, line 8: delete the material beginning with that line and ending
22 with page 35, line 2.

23 **41.** Page 35, line 22: after that line insert:

1 ~~SECTION 66m.~~ 11.38 (1) (a) 3. of the statutes is amended to read:

2 11.38 (1) (a) 3. No corporation or association specified in subd. 1. may expend
3 more than a combined total of \$500 annually for solicitation of contributions to a fund
4 established under subd. 2. ~~or to a conduit.~~

*FNS
35-22*

5 ~~42. Page 36 line 21 after that line insert:~~

6 ~~SECTION 70e.~~ 11.50 (2) (b) 3m. of the statutes is created to read:

7 11.50 (2) (b) 3m. The candidate has filed with the board, no later than 4:30 p.m.
8 on the 5th day before the deadline for filing an application to receive a grant under
9 par. (a), an application to receive a grant or a statement that the candidate intends
10 to qualify to receive a grant ~~W~~ (C)

(10)

11 ~~SECTION 70m.~~ 11.50 (2) (b) 3s. of the statutes is created to read:

12 11.50 (2) (b) 3s. The candidate has filed with the board, on a form prescribed
13 by the board, no later than the deadline for filing an application to receive a grant
14 under par. (a), the signatures of qualified electors of the jurisdiction or district in
15 which the candidate seeks office which have not been filed with the application of any
16 other candidate at the same election for the same office within the same jurisdiction
17 or district equal to the following, less the number of valid signatures of qualified
18 electors who signed nomination papers filed by the candidate or candidates under s.
19 8.15 (6), 8.20 (4) or 8.50 (3) (a):

*FNS
36-21:2*

*1st
page
insert
5 pages
back*

20 a. For candidates for the offices of governor and lieutenant governor jointly or
21 a candidate for the office of attorney general, secretary of state, state treasurer, state
22 superintendent or justice, not less than 5,000 nor more than 7,000 electors.

23 b. For candidates for the office of state senator, not less than 1,000 nor more
24 than 2,000 electors.



INS
36-21:3

c. For candidates for the office of representative to the assembly, not less than
2 500 nor more than 1,000 electors. *GO TO INSERT 36-21:4*

3 **43.** Page 37, line 3: delete the material beginning with "state, other" and
4 ending with "conduits" on line 4 and substitute "state".

5 **44.** Page 37, line 14: delete the material beginning with "In the" and ending
6 with "office." on line 16.

7 **45.** Page 37, line 24: delete the material beginning with that line and ending
8 with page 38, line 7, and substitute:

9 ~~SECTION 72d.~~ 11.50 (2) (b) 5. a. to f. of the statutes are created to read:

10 11.50 (2) (b) 5. a. For candidates for the offices of governor and lieutenant
11 governor jointly, \$80,000.

12 b. For a candidate for the office of attorney general, \$24,000.

13 c. For a candidate for the office of justice, \$12,000.

14 d. For a candidate for the office of secretary of state, state treasurer or state
15 superintendent, \$8,000.

16 e. For a candidate for the office of state senator, \$4,000.

17 f. For a candidate for the office of representative to the assembly, \$2,000.

18 **46.** Page 39, line 18: delete "(ba) and (bb)" and substitute "and (ba)".

19 **47.** Page 40, line 3: delete lines 3 to 10 and substitute:

20 ~~SECTION 82d.~~ 11.50 (9) (a) 1. to 6. of the statutes are created to read:

21 11.50 (9) (a) 1. For candidates for the office of governor and lieutenant governor
22 jointly, \$1,500,000.

23 2. For a candidate for the office of attorney general, \$150,000.

24 3. For a candidate for the office of justice, \$225,000.

INS
37-24

INS
40-3

Handwritten notes: "JWS 40-3" with arrows pointing to lines 1 and 4.

1 4. For a candidate for the office of secretary of state, state treasurer or state
2 superintendent, \$150,000.

3 5. For a candidate for the office of state senator, \$75,000.

4 6. For a candidate for the office of representative to the assembly, \$37,500.

5 **48.** Page 41, line 3: after "(7)" insert "or (8)".

6 **49.** Page 41, line 7: delete "political party".

7 **50.** Page 41, line 9: delete the material beginning with "as" and ending with
8 "(a)." on line 10 and substitute "plus an additional grant in an amount equal to the

9 total amount of obligations incurred or proposed to be incurred and disbursements
10 proposed to be made that have not previously been reported as obligations exceeding

11 the amount specified under s. 11.31 (1) (a) to (f) for the office which the candidate
12 seeks, as reported by the opposing candidate under s. 11.12 (7) or (8), or both."

Handwritten note: "(END OF INSERT 41-9)"

13 **51.** Page 41, line 11: delete lines 11 to 20.

14 **52.** Page 42, line 24: delete ", including a conduit,".

15 **53.** Page 43, line 4: delete "or (7)" and substitute ", (7) or (8)".

16 **54.** Page 43, line 6: delete "and (7)" and substitute ", (7) and (8)".

17 **55.** Page 43, line 15: delete "or (7)" and substitute ", (7) or (8)".

18 **56.** Page 43, line 20: delete lines 20 and 21.

19 **57.** Page 45, line 9: delete "or (7)" and substitute ", (7) or (8)".

20 **58.** Page 45, line 11: delete "and (7)" and substitute ", (7) and (8)".

21 **59.** Page 45, line 13: delete the material beginning with that line and ending
22 with page 46, line 10.

23 **60.** Page 49, line 9: delete lines 9 and 10 and substitute:

Handwritten notes: "JWS 41-9" in a circle.

1 (1) Notwithstanding section 990.01 (11) of the statutes, if a court finds that all
2 or any portion of section 11.01 (16) (a) 3., 11.12 (6) (c) or 11.50 (9) (b) of the statutes,
3 as created by this act, or section 11.06 (2) of the statutes, as affected by this act, is
4 unconstitutional, then sections 11.01 (16) (a) 3., 11.12 (6) (c) and 11.50 (9) (b) of the
5 statutes, as created by this act, and the treatment of section 11.06 (2) of the statutes
6 by this act are void in their entirety.

INS
49-9

7 **61.** Page 49, line 21: delete "~~SECTION 94~~" and substitute "~~SECTION 92~~".

8 (END)

BILL

SECTION H. CR 11.05 (14)

1 11.05 (14) PRESUMPTION CONCERNING CERTAIN COMMUNICATIONS. Whenever any
2 person publishes, disseminates or broadcasts, or causes to be published,
3 disseminated or broadcast, any communication that includes a reference to a clearly
4 identified candidate for an office to be filled at a general, spring or special election,
5 during the 60-day period preceding that election or during the 30-day period
6 preceding any primary for that election, and the communication is substantially
7 directed toward the electorate at that election, it is presumed that the
8 communication is made for the purpose of influencing the election or nomination for
9 election of that candidate, unless the person making the communication or causing
10 the communication to be made establishes, by a preponderance of the evidence, that
11 the communication was not made for that purpose.

12 ~~SECTION 5. 11.06 (1) (a) of the statutes is amended to read:~~
(END OF INSERT 14-14)

13 ~~11.06 (1) (a) An itemized statement giving the date, full name and street~~
14 ~~address of each contributor who has made a contribution in excess of \$20, or whose~~
15 ~~contribution if \$20 or less aggregates more than \$20 for the calendar year, together~~
16 ~~with the amount of the contribution and the cumulative total contributions made by~~
17 ~~that contributor for the calendar year and, if the contributor made the contribution~~
18 ~~through a conduit, the identity of the conduit.~~

19 ~~SECTION 6. 11.06 (1) (d) and (L) of the statutes are amended to read:~~

20 ~~11.06 (1) (d) An itemized statement of other income in excess of \$20, including~~
21 ~~interest, returns on investments, rebates and refunds received and a separate~~
22 ~~statement of earnings received, including interest and returns on investments.~~

23 ~~(L) A statement of cumulative totals for the calendar year of contributions~~
24 ~~made, contributions received, and disbursements made, including transfers of funds~~
25 ~~made to or received from other registrants, and earnings received.~~

INS 36-21:1

Section #. 11.50 (2) (b) 1. to 3. of the statutes are amended to read:

- 11.50 (2) (b) 1. The application is timely; ~~—~~ ↓ .
2. The candidate is certified under s. 7.08 (2) (a) or 8.50 (1) (d) to appear upon the spring or general election or a special election ballot; ~~—~~ ↓ .
3. The candidate has an opponent who is certified for placement on the election ballot as a candidate for the same office; ~~—~~ ↓ .

History: 1977 c. 107, 272; 1979 c. 328; 1983 a. 51; 1983 a. 484 s. 174; 1985 a. 303 ss. 73 to 79, 86; 1987 a. 370, 391, 403; 1989 a. 31; 1989 a. 192 s. 75.

GO ^{BACK} TO INSERT
36-21:2

PW 3 36-2114

Section #. 11.50 (2) (b) 4. of the statutes is amended to read:

11.50 (2) (b) 4. The financial reports filed by or on behalf of the candidate as of the date of the spring or September primary, or the date that the special primary is or would be held, if required, indicate that his or her statement filed with the application under par. (a) is true, [↓] and

~~History: 1977 c. 107, 272; 1979 c. 328; 1983 a. 51; 1983 a. 484 s. 174; 1985 a. 303 ss. 73 to 79, 86; 1987 a. 370, 391, 403; 1989 a. 31; 1989 a. 192 s. 75.~~

(END OF INSERT 36-21 - -
4 PAGES)

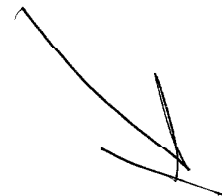
**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3171/1dnins

JTK.....

cmf

1. Under this bill, candidates for the office of governor and lieutenant governor are potentially bound by the same disbursement limitation, which applies to the primary and election campaigns combined. Under current law, these candidates may run separately in the primary election and a candidate for one office but not the other office, or the candidates of one party but not the other party, may be opposed in the primary election. You may wish to consider separate treatment of disbursement limitations for those offices in the primary election. See, for example, proposed SECTIONS 64 and 65 of SB-113.



DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1511/1dn
JTK:jlg:km

~~May 17, 1999~~

1. I have attempted to distill the essence of the submitted language relating to bogus "issue" advertising in proposed s. 11.05 (14). Concerning that language:

a. I did not incorporate the examples of express advocacy in (1)(A) because it is well-established, I think, that this type of thing is currently subject to disclosure requirements under Wisconsin law and under *Buckley v. Valeo, et al.*, 96 S.Ct. 612 (1976). Also, we are reluctant to place examples in drafts because the examples are necessarily nonexhaustive and the courts may construe the examples to limit the application of the law, despite language to the effect that the examples are not intended to be limiting. See *Hatheway v. Gannett Satellite Network*, 57 Wis.2d 395 (Ct. App., 1990).

b. Although I understand the desire to limit the sweep of this provision, I think there is a problem with the \$2,000 limitation in that the "issue-oriented" communications are defined in such a way as to include, in addition, traditional communications that utilize express advocacy, so the draft ends up suggesting, in a backhanded way, that traditional communications might not be reportable unless the \$2,000 threshold is crossed.

c. With respect to (2) of the submitted language, we currently exclude internal communications from disclosure requirements under s. 11.29, stats. This statute reads a little differently than (2) (A) in that it excludes all communications by a corporation, cooperative or voluntary association to its members, shareholders or subscribers, whereas (2) (A) excludes communications by a corporation to its shareholders or certain employees or by a labor organization to its members. Because I wasn't sure that you specifically intended to alter our current provision, I left it alone. Also, we currently exclude the organized media from disclosure requirements under s. 11.30 (4), stats. Once again, this statute reads a little differently than (2) (B) of the submitted language, but I wasn't sure if you specifically intended to alter our current exclusion. Please let me know if this is not in accord with your intent.

2. Concerning ^{proposed s. 11.05 (14), relating to bogus "issue" advertising} ~~the constitutionality of this proposal~~, currently, ch. 11, stats., generally requires disclosure of financial activity by individuals and committees seeking to influence the election or defeat of candidates for state or local office [see ss. 11.01 (6), (7), (11) and (16), 11.05 and 11.06, stats.], unless a disbursement is made or obligation incurred by an individual other than a candidate or by a committee which is not organized primarily for political purposes, the disbursement is not a contribution

as defined in the law and the disbursement is not made to expressly advocate the election or defeat of a clearly identified candidate [see s. 11.06 (2), stats.]. This language pretty closely tracks the holding of the U.S. Supreme Court in *Buckley v. Valeo, et al.*, 96 S. Ct. 612, 656-664 (1976), which prescribes the boundaries of disclosure that may be constitutionally enforced (except as those requirements affect certain minor parties and independent candidates). This proposal appears to extend beyond the boundaries which the court permitted in 1976. As a result, its enforceability at the current time appears to rest upon a shift by the court in its stance on this issue. In this connection, see also *North Carolina Right to Life Inc. v. Bartlett*, 67 U.S.L.W. 4148 (U.S.C.A., 4th Cir., 1999), in which the court voided North Carolina's attempt to regulate issue advocacy as inconsistent with *Buckley*. I know that the McCain-Feingold language has been looked at by respected constitutional scholars who convincingly argue that it passes constitutional muster; however, current state law is specifically molded to fit within the confines of the *Buckley* decision, whereas this language casts aside that decision and takes the stance that another mold should be acceptable. There is also another issue with this language in that under the Fifth, Sixth and Fourteenth amendments, the state has the burden of proof in prosecutions. To the extent that this provision operates to shift that burden to the defendant under certain circumstances, it may be difficult to enforce.

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containing the reference to a candidate at that election, an office to be filled at that election or political party, appears to extend beyond the boundaries which the court permitted in 1976. As a result, its enforceability at the current time appears to rest upon a shift by the court in its stance on this issue.

3. ~~6.~~ Proposed s. 11.50 (9) (b) and (ba), which increase the public grants payable to certain candidates when independent disbursements are made against them or their opponents, or when their opponents raise more than a specified level of contributions from certain sources, and proposed s. 11.31 (3p), which increases disbursement limitations by an amount equal to any grant received under proposed s. 11.50 (9) (b) or (ba), may result in an abridgement of the First Amendment rights of the persons making the disbursements or contributions. See *Day v. Holahan*, 34 F.3d 1356 (8th Cir., 1994), in which a Minnesota law that included provisions similar to proposed s. 11.31 (3p) was voided. While this case expressly involved only independent expenditures, since this case and other federal cases hold that the making of a contribution is a protected First Amendment right, the same issue could be raised in the context of contributions. It should be noted that there are there are viable arguments to be made on both sides of this issue, this case is not binding in Wisconsin because it did not arise in the circuit that includes Wisconsin and the U.S. Supreme Court has not yet spoken on this issue.

7. ~~Proposed s. 11.61, which permits a court to nullify an election if certain violations of the campaign finance law are sufficient to have affected the election result, raises legal issues that make it difficult to predict how it will be applied. In *State ex rel. La Follette v. Kohler*, 200 Wis. 518 (1930), the Wisconsin Supreme Court held that the legislature has the power to void the election of a candidate who procured his nomination by illegal means. However, this case did not apply to a legislative candidate. In the case of a legislative candidate, the result might be affected by article IV, section 7, of the Wisconsin Constitution, which makes each house the judge of the elections, returns and qualifications of its members. Additionally, under this draft, violations that result in nullification of a candidate's election may be committed by persons other than the candidate. Also, if a candidate takes office and must be removed, it is generally held that where a constitution prescribes methodology for removal of officeholders (as does the Wisconsin Constitution), that methodology is exclusive. See 67 C.J.S. Officers s. 120, p. 486.~~

4. ~~8.~~ The tax on lobbying expenditures under proposed subch. XIII of ch. 77 is innovative and has not, to my knowledge, been ruled upon by the courts. Because this tax may be viewed as burdening speech, it may be subject to attack. In *Georgia State AFL-CIO v. Georgia Ethics Commission*, C. A. No. 1:94-cv-103-MHS (U.S.D.C., N.D. Ga., 1995), the court invalidated lobbying registration fees that it viewed as excessive under the First and Fourteenth Amendments to the U.S. Constitution. However, this case was never published and was not appealed. Presumably the answer to this type of attack is that this tax is on business activity rather than speech, like reasonable contribution limitations that have been approved, any burden imposed by the tax on the right to lobby is minimal and the alternative of unpaid citizen lobbying activity is not taxed and remains open.



5.4. I also want to note briefly that a few of the provisions of this draft are innovative, and we do not yet have, to my knowledge, specific guidance from the federal courts concerning the enforceability of provisions of these types. It is well possible that a court may find a rational basis for these provisions that would permit them to be upheld. However, because of the concerns expressed by the U.S. Supreme Court in *Buckley v. Valco, et al.*, 96 S. Ct. 612 (1976), and certain other cases that attempts to regulate campaign financing activities may, in some instances, impermissibly intrude upon freedom of speech or association, or equal protection guarantees, it is possible that enforceability problems with these provisions may occur. In particular, those provisions concerning which we do not have specific guidance at this time are:

(a) Proposed s. 11.12 (6) ~~and (7)~~ (c), which impose^s a waiting period of up to 21 days before certain contributions may be transferred or accepted or before certain disbursements may be made or obligations to make disbursements may be incurred.

(b) Proposed s. 11.12 (7) ^{and (8)}, which imposes additional reporting requirements upon candidates who decline to accept ~~disbursement and contribution limitations and restrictions.~~ *public grants*

(d)(c) Proposed s. 11.24 (1t), which prohibits certain candidates and their personal campaign committees from accepting contributions within 10 days of an election in which the candidates participate. *any*

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(c) Proposed s. 11.24 (1s), which prohibits certain candidates and their personal campaign committees from accepting contributions from special interest ("political action") committees within 30 days of an election in which the candidates participate.

(END OF D-NOTE)



(DRAFTS)
State of Wisconsin
1999 - 2000 LEGISLATURE

-3171/1
LRB-2225/4
JTK&JK:cmh:km

Wanted by Mon 6/7 - 1 PM

1999 BILL

(regenerate)

1 **AN ACT** to ~~repeal~~ 11.01 (12s), 11.05 (3) (o), 11.26 (9) (c), 11.265, 11.31 (1) (b), 11.31
2 (2m), 11.31 (3), 11.31 (3m), 11.31 (4), 11.50 (2) (i), 11.50 (3), 11.50 (6), 20.855 (4)
3 (b) and 71.10 (3); to **renumber and amend** 11.12 (6), 11.26 (9) (a), 11.26 (10),
4 11.50 (2) (b) 5. and 11.50 (9); to **amend** 5.02 (13), 5.02 (18), 7.08 (2) (c) and (cm),
5 8.35 (4) (b), 10.02 (3) (b) 2m., 11.01 (5m), 11.05 (3) (e), 11.05 (9) (b), 11.06 (2),
6 11.06 (7m) (a), 11.06 (7m) (c), 11.09 (3), 11.12 (5), 11.16 (5), 11.20 (2m), 11.20 (3)
7 (d), 11.20 (3) (g), 11.20 (8) (intro.), 11.20 (12), 11.21 (15), 11.26 (1) (intro.), 11.26
8 (2) (intro.), 11.26 (2) (a), 11.26 (4), 11.26 (8), 11.26 (9) (b), 11.26 (13), 11.26 (17)
9 (a), 11.31 (1) (a), 11.31 (1) (c) and (d), 11.31 (1) (e) and (f), 11.31 (2), 11.31 (7) (a),
10 11.50 (title), 11.50 (1) (b), 11.50 (2) (a), 11.50 (2) (b) (intro.), 11.50 (2) (g), 11.50
11 (5), 11.50 (9) (title), 11.50 (11) (e), 11.61 (1) (a), 11.61 (1) (a), 11.61 (1) (b), 11.61
12 (1) (b), 11.61 (1) (c), 14.58 (20), 20.510 (1) (q), 25.17 (1) (ys), 25.42 and chapter
13 77 (title); to **repeal and recreate** 11.50 (4); and to **create** 11.01 (16) (a) 3.,
14 11.05 (3) (d), 11.12 (6) (b) to (d), 11.12 (7), 11.20 (2e), 11.20 (2s), 11.20 (2t), 11.20

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1 (8) (ak) and (aL), 11.20 (8) (am), 11.20 (8) (an), 11.24 (1t), 11.24 (1w), 11.26 (1m),
 2 11.26 (9) (a) 1. to 5., ~~11.26 (9) (aa)~~, 11.26 (9) (am), 11.26 (10) (a) 1. to 5. and (b),
 3 11.26 (10a), 11.31 (3p), 11.31 (7) (e), 11.31 (9), 11.50 (2) (b) 5. a. to e., 11.50 (2)
 4 (bm), 11.50 (9) (a) 1. to 5., 11.50 (9) (b), ~~11.50 (9) (ba)~~, 11.50 (9) (bb), 11.50 (9a),
 5 11.60 (3s) and (3t), 11.61 (1) (d), 11.62, 20.855 (4) (ba), ~~20.855 (4) (bb)~~ and
 6 ~~subchapter XIII of chapter 77 [precedes 77.997]~~ of the statutes; **relating to:**
 7 campaign financing, imposition of a lobbying expenditure tax, providing
 8 exemptions from emergency rule procedures, granting rule-making authority,
 9 making appropriations and providing penalties.

Analysis by the Legislative Reference Bureau

This bill makes numerous changes in the campaign finance law and imposes a tax on lobbying expenditures. Significant changes include:

Filing of campaign finance reports

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Currently, a committee making contributions or a candidate or other individual or committee accepting contributions, making disbursements (expenditures) or incurring obligations in support of or opposition to a candidate is generally required to file a report no later than the eighth day before a primary or election at which the candidate seeks nomination or election to office. The report must disclose contributions made or accepted, disbursements made and obligations incurred through the 14th day prior to the primary or election.

Currently, if a candidate for state office receives one or more contributions from a single contributor aggregating \$500 or more during the 14-day period preceding an election, the candidate must report to the elections board the information currently required to be disclosed pertaining to contributions received by the candidate no later than 24 hours following receipt of any such contribution or contributions.

Currently, if an individual or organization receives a political contribution consisting of money and transfers the contribution to another individual or organization without exercising discretion as to the amount to be transferred and the individual to whom or the organization to which the transfer is to be made, the contribution is considered to be made by the original contributor for purposes of reporting by the ultimate recipient. The contribution is also treated as an individual contribution for purposes of determining contribution limitations and qualifying contributions for public grants. The individual or organization making the transfer is called a "conduit" under the law. A conduit must identify itself to the ultimate

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recipient as a conduit and provide to that recipient the information about the contribution that is necessary for the recipient to file its campaign finance reports.

This bill requires each conduit that has accepted or intends to accept any contribution to be transferred to a candidate for a major state office (governor, lieutenant governor, attorney general, secretary of state, state treasurer, state superintendent of public instruction, justice of the supreme court, state senator or representative to the assembly) at the general election or a special election to report to the elections board, in the case of the general election, on the 63rd, 42nd and 21st day prior to that election, and in the case of a special election, on the 21st day prior to that election, specifying the name of each candidate to whom the conduit intends to transfer any contribution during the 21-day period following the date on which the report is due to be filed and the amount to be transferred to that candidate.

The bill similarly requires each committee, other than a conduit, that intends to receive any contribution, make any disbursement or incur any obligation to make a disbursement for the purpose of advocating the election or defeat of a candidate for a major state office at the general election or a special election independently of any candidate who is supported or whose opponent is opposed to report to the elections board on the 63rd, 42nd and 21st day prior to that election, and in the case of a special election, on the 21st day prior to that election, specifying the name of each candidate who is supported or whose opponent is opposed and the total amount of contributions to be received, disbursements to be made and obligations to be incurred for that purpose during the 21-day period following the date on which the report is due to be filed.

The bill also requires conduits and committees other than conduits who or which are subject to these special reporting requirements to file additional reports on the 39th and 18th days preceding each general election and the 18th day preceding each special election itemizing actual contributions transferred and received, disbursements made and obligations incurred during the 21-day periods ending on the 42nd and 21st days preceding the election.

In addition, the bill provides that if a candidate for a major state office at the general or a special election does not enter into an agreement to accept a public grant in return for abiding by disbursement limitations and contribution restrictions, the candidate must report to the elections board all information currently required to be disclosed pertaining to any contributions received by the candidate no later than 24 hours following receipt of any contribution or contributions after that candidate receives total contributions equal to more than the following amounts during his or her campaign, or if the candidate has an opponent whose name is certified to appear on the ballot as a candidate for the party nomination of his or her party in a primary election in that campaign, during the period beginning after the date of that primary election:

1. For candidates for the offices of governor and lieutenant governor jointly, \$330,000 from all political party committees or \$1,670,000 from all individuals.
2. For a candidate for the office of attorney general, \$65,000 from all political party committees or \$200,000 from all individuals.

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3. For a candidate for the office of secretary of state or state treasurer, \$33,000 from all political party committees or \$167,000 from all individuals.

4. For a candidate for the office of justice or state superintendent, \$100,000 from all individuals.

5. For a candidate for the office of state senator, \$25,000 from all political party committees or \$125,000 from all individuals.

6. For a candidate for the office of representative to the assembly, \$12,500 from all political party committees or \$62,500 from all individuals.

Under the bill these amounts are subject to a biennial cost-of-living adjustment beginning in 2002, in accordance with a formula tied to the "consumer price index" determined by the U.S. department of labor.

The bill also requires each candidate at the general election, and each committee or individual making disbursements or incurring obligations in support of or in opposition to a candidate at the general or a special election, to file an additional report on the tenth day after the election.

Mass media activities

Currently, individuals who accept contributions, organizations that make or accept contributions, and individuals who or organizations that incur obligations or make disbursements for the purpose of influencing an election for state or local office are generally required to register with the appropriate filing officer and to file financial reports with that officer, regardless of whether they act in conjunction with or independently of any candidate who is supported or opposed.

This bill requires each individual who and organization that makes a communication by means of a newspaper, periodical, commercial billboard or radio or television station, other than a communication by a corporation, cooperative or nonpolitical voluntary association limited to its members, shareholders or subscribers, during the period beginning on the 60th day preceding an election and ending on the date of that election which includes a reference to a candidate at that election, an office to be filled at that election or a political party to register with the appropriate filing officer and to file financial reports with that officer to the same extent as currently required of individuals who and organizations that engage in activity for the purpose of influencing elections.

Disbursement limitations

Under current law, disbursement (expenditure) levels are specified for candidates for various state and local offices. These levels become a binding limitation upon any candidate for state office who accepts a state grant from the Wisconsin election campaign fund or who agrees to be bound by the limitation, unless the candidate is opposed by a major opponent who could have qualified for a grant but who declines to accept one and declines to file an affidavit of voluntary compliance with disbursement and contribution limitations. Under current law, the disbursement limitations apply to a candidate's entire primary and election campaign combined. Additionally, the disbursement levels for candidates for the offices of state senator and representative to the assembly are subdivided between the primary and election campaign periods in such a way that only about 60% of the

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total applicable disbursement level for either office may be allocated by a candidate to either the primary or the election campaign period.

This bill:

1. Eliminates disbursement levels and limitations applicable to candidates for state office, except the offices of court of appeals judge, circuit judge and district attorney, on or before the date of the primary election for those offices.
2. Revises the current disbursement levels applicable to candidates for the offices shown in the following chart:

<i>Office</i>	<i>Current Level</i>	<i>Proposed Level</i>
Governor	\$1,078,200	[\$2,000,000
Lieutenant governor	323,475	for both offices]
Attorney general	589,000	400,000
Secretary of state	215,625	200,000
State treasurer	215,625	200,000
Supreme court justice	215,625	200,000
State superintendent	215,625	200,000
State senator	34,500	150,000
Representative to the assembly	17,250	75,000

3. Provides that disbursement limitations do not apply until after the date of a primary election for a candidate who has an opponent whose name appears on the ballot as a candidate for the nomination of his or her party at the primary election.

4. Creates a biennial cost-of-living adjustment that causes the statutory disbursement levels to be adjusted biennially, beginning in 2002, in accordance with a formula tied to the "consumer price index" determined by the U.S. department of labor.

5. Deletes current law that permits a candidate who does not accept a grant to continue to bind an opponent to disbursement and contribution limitations by filing an affidavit of voluntary compliance.

6. Deletes current law that makes disbursement limitations inapplicable to a candidate who accepts a grant when the candidate has an opponent who could have qualified for a grant but declines to accept one, and who declines to file an affidavit of voluntary compliance with disbursement and self-contribution limitations. However, the bill increases the disbursement limitation of the candidate who accepts a grant by an amount equal to 1) the amount of any contributions that are received by committees for the purpose of making independent disbursements to oppose that candidate or to support that candidate's opponent; 2) the total amount of contributions that conduits report they have transferred or intend to transfer to opposing candidates; and 3) the total amount of contributions accepted by opposing candidates above the level for which 24-hour reports are required (see below).

Treatment of legislative campaign committees

Currently, the adherents of any political party in either house of the legislature may organize a "legislative campaign committee" to support the candidacy of

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members of their party for legislative office. Committees other than legislative campaign committees and political party committees are generally subject to a limitation upon the contributions that they may make to candidates for legislative office or to political parties. Legislative campaign committees are subject only to overall limitations on the aggregate contributions that may be accepted by a candidate from entities other than individuals.

This bill eliminates the special status of legislative campaign committees, thus treating them in the same manner as other special interest committees for the purpose of contribution limitations.

Contribution limitations

Current law specifies limitations on the maximum amount of contributions that may be given to and accepted by a candidate for state or local office from any single individual or committee. Under current law, a candidate who receives a grant may make contributions to his or her own campaign in an amount or value not exceeding 200% of the limitation applicable to other individuals making contributions to his or her campaign. Current law also limits the total contributions that a candidate for state or local office may accept from all political committees, including political party and legislative campaign committees, and from the Wisconsin election campaign fund to 65% of the value of the statutory disbursement level specified for the office that the candidate seeks. The total amount that a candidate may accept from committees other than political party and legislative campaign committees and from the Wisconsin election campaign fund is limited to 45% of that disbursement level.

This bill deletes the current aggregate limitations on contributions that may be received from committees and instead imposes an aggregate contribution limitation on the total amount or value of contributions that a candidate who accepts a grant may accept from all committees, including political party committees, during the entire campaign of the candidate, or if the candidate has an opponent for the nomination of his or her party at a primary election, after the date of the primary election, as follows:

1. For candidates for the offices of governor and lieutenant governor jointly, \$330,000.
2. For a candidate for the office of attorney general, \$65,000.
3. For a candidate for the office of secretary of state, state treasurer, justice or state superintendent, \$33,000.
4. For a candidate for the office of state senator, \$25,000.
5. For a candidate for the office of representative to the assembly, \$12,500.

The bill also imposes an aggregate contribution limitation on the total amount or value of contributions that a candidate who accepts a grant may accept from all individuals, including contributions by an individual to his or her own campaign, during the entire campaign of the candidate, or if the candidate has an opponent for the nomination of his or her party at a primary election, after the date of the primary election, as follows:

1. For candidates for the offices of governor and lieutenant governor jointly, \$1,000,000.

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- 2. For a candidate for the office of attorney general, \$200,000.
- 3. For a candidate for the office of secretary of state, state treasurer, state superintendent of public instruction or justice of the supreme court, \$100,000.
- 4. For a candidate for the office of state senator, \$75,000.
- 5. For a candidate for the office of representative to the assembly, \$37,500.

Under the bill, a candidate is not subject to the limitation upon contributions by a single individual to his or her campaign.

Under the bill, the aggregate contribution limitations are subject to a biennial cost-of-living adjustment, beginning in 2002, in accordance with a formula tied to the "consumer price index" determined by the U.S. department of labor.

Other contribution restrictions

This bill prohibits every candidate for a major state office (governor, lieutenant governor, attorney general, secretary of state, state treasurer, superintendent of public instruction or justice of the supreme court) from accepting any contribution during the period beginning on the tenth day preceding any election other than a primary election and ending on the date of that election.

Wisconsin election campaign fund

I. SOURCES AND USES OF FUNDS

Under current law, the Wisconsin election campaign fund is financed through an individual income tax "checkoff". Every individual filing a state income tax return who has a tax liability or is entitled to a tax refund may direct that \$1 of general purpose revenue be transferred to the fund. Individuals filing a joint return may separately choose whether to direct that the \$1 transfer be made. All moneys transferred to the fund are placed in accounts for specified state offices, and candidates for those offices at the general or a special election may qualify for grants from the fund to be used for specified campaign expenses. No moneys in the fund may be used for any other purpose. Grants at special elections are funded by reallocating moneys set aside to provide grants to candidates at the general election, to the extent that moneys are available.

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This bill changes the name of the Wisconsin election campaign fund to the "clean government fund". The bill deletes the checkoff procedure and provides, instead, for the revenue to the fund to be raised by levying a tax on lobbying expenditures (see below), with the balance to be transferred to the fund, as needed, from general purpose revenue.

**II. GRANT ELIGIBILITY
REQUIREMENTS AND AMOUNTS**

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Under current law, public financing from the Wisconsin election campaign fund is available to eligible candidates for the offices of state senator, representative to the assembly, governor, lieutenant governor, attorney general, state treasurer, secretary of state, justice of the supreme court and superintendent of public instruction. To receive a grant, a candidate must file an application with the state elections board no later than the deadline for filing nomination papers. Following the primary election or the date on which a primary would be held, if required, the board

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determines whether a candidate who applies for a grant meets the following eligibility requirements:

1. If the candidate seeks a partisan state office at a general election, the candidate must have received at least six percent of the total votes cast in the primary and won the primary. If the candidate seeks a partisan state office at a special election, the candidate must either: a) appear on the ballot or in the column of a political party whose candidate for the same office at the preceding general election received at least six percent of the vote; or b) receive at least six percent of the votes cast at the special election.

2. The candidate must have an opponent in the election.

3. The candidate must receive, during a specified time period, a specified amount through contributions from individuals of \$100 or less. The contributions may be received by the candidate directly from individuals, or may be transferred to the candidate by a conduit. For a candidate for the office of governor, lieutenant governor, secretary of state, state treasurer, attorney general, justice of the supreme court or superintendent of public instruction, the amount is five percent of the authorized disbursement level for the office that the candidate seeks. For a candidate for the office of state senator or representative to the assembly, the amount is ten percent of the authorized disbursement level for the office that the candidate seeks.

Under current law, a candidate for any office who accepts a grant must comply with statutorily prescribed contribution and disbursement limitations, unless one or more of the candidate's opponents who receive at least six percent of the votes cast for all candidates for that office at a partisan primary, if a primary was held, do not accept a grant and do not voluntarily comply with the contribution and disbursement limitations for that office. The maximum grant that a candidate may receive is the amount that, when added to all other contributions accepted from sources other than individuals, political party committees and legislative campaign committees, is equal to 45% of the authorized disbursement level for the office that the candidate seeks, if there are sufficient moneys in the Wisconsin election campaign fund to finance the full amount of grants for which candidates qualify.

This bill requires a candidate for any office who desires to qualify for a grant from the clean government fund to receive contributions from individuals, other than contributions transferred by conduits, in amounts of \$100 or less in the following total amounts:

1. For candidates for the offices of governor and lieutenant governor jointly, \$80,400.

2. For a candidate for the office of attorney general, \$16,200.

3. For a candidate for the office of secretary of state, state treasurer, justice of the supreme court or state superintendent of public instruction, \$8,040.

4. For a candidate for the office of state senator, \$6,000.

5. For a candidate for the office of representative to the assembly, \$3,000.

The bill also requires that the contributions must be received from individuals who are residents of this state and in the case of a candidate for legislative office, the

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contributions must be received from individuals who reside in the district in which the candidate seeks office.

In addition, the bill requires a candidate who seeks a grant to agree not to accept any contributions from special interest ("political action") committees.

The bill revises grant amounts to the following, irrespective of contributions received from other sources:

1. For candidates for the office of governor and lieutenant governor jointly, \$670,000.
2. For a candidate for the office of attorney general, \$135,000.
3. For a candidate for the office of secretary of state, state treasurer, superintendent of public instruction or justice of the supreme court, \$67,000.
4. For a candidate for the office of state senator, \$50,000.
5. For a candidate for the office of representative to the assembly, \$25,000.

In addition to these amounts, the bill provides that a candidate who accepts a grant shall receive an additional grant in an amount equal to 1) the amount of any contributions that are received by committees for the purpose of making independent disbursements to oppose that candidate or to support that candidate's opponent; 2) the total amount of contributions that conduits report they have transferred or intend to transfer to opposing candidates; and 3) the total amount of contributions accepted by opposing candidates above the level for which 24-hour reports are required.

Under the bill, qualifying amounts and grant amounts are subject to a biennial cost-of-living adjustment, beginning in 2002, in accordance with a formula tied to the "consumer price index" determined by the U.S. department of labor.

Penalties for violations

Currently, violators of the campaign finance law are subject to a forfeiture (civil penalty) of not more than \$500 for each violation, except that violators of contribution limitations are subject to a forfeiture of not more than treble the amount unlawfully contributed. In addition, currently, any person who is delinquent in filing a report is subject to a forfeiture of not more than \$50 or one percent of the annual salary of the office for which a candidate is being supported or opposed, whichever is greater, for each day of delinquency. Currently, any person who makes an unlawful contribution is subject to a forfeiture of treble the amount of the unlawful contribution.

Currently, whoever intentionally violates certain provisions of the campaign finance law, such as registration requirements, contribution limitations, the prohibition against making contributions in the name of another person, the prohibition against using contributions for most nonpolitical purposes and the prohibition against filing false reports and statements may be fined not more than \$1,000 or imprisoned for not more than six months, or both, if the violation does not exceed \$100 in amount or value, and may be fined not more than \$10,000 or imprisoned for not more than three years, or both, if the violation exceeds \$100 in amount or value.

This bill provides that if any candidate or other individual or committee, including a conduit, accepts or transfers a contribution, makes a disbursement or

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~~incurs an obligation to make a disbursement for the purpose of supporting or opposing a candidate for a major state office (governor, lieutenant governor, attorney general, secretary of state, state treasurer, state superintendent of public instruction or justice of the supreme court) or for the purpose of making certain communications by means of communications media (see above) without first registering and reporting to the extent required under the bill, the offender is subject to a forfeiture (civil penalty) of not more than \$500 for each day of violation. The bill also provides that if any of these individuals or committees accepts or transfers one or more contributions, makes one or more disbursements or incurs one or more obligations to make disbursements for such a purpose in an amount that is more or less than the amount reported by that individual or committee:~~

- ~~1. By more than 5% but not more than 10%, the individual or committee must forfeit four times the amount of the difference.~~
- ~~2. By more than 10% but not more than 15%, the individual or committee must forfeit six times the amount of the difference.~~
- ~~3. By more than 15%, the individual or committee must forfeit eight times the amount of the difference.~~

~~The bill also provides that if the amount of contributions accepted or transferred, disbursements made or obligations incurred differs from the amount reported by at least 15%, and the violations are of sufficient severity to have affected the result of the election, the elections board, the district attorney for any county where a violation occurs or any candidate who is adversely affected by the result of the election in connection with which the violation occurred may file suit to have the election nullified and to have a new election ordered for the affected office.~~

~~In addition, the bill imposes a new penalty upon any person who, with intent to conceal or deceive, accepts or transfers a contribution, makes a disbursement or incurs an obligation to make a disbursement for the purpose of supporting or opposing a candidate for a major state office or for the purpose of making certain communications by means of communications media (see above) without registering or reporting to the extent required under the bill, consisting of a fine of not more than \$10,000 or imprisonment for not more than five years, or both (equivalent to a class E felony).~~

Lobbying expenditure tax

10%

This bill imposes a tax on lobbying principals (persons who employ lobbyists) at the rate of ~~ten percent~~ ^{10%} on lobbying expenditures that are reportable to the ethics board. The tax is payable to the department of revenue semiannually.

Nonseverability

Currently, if any part of an act is found by a court to be invalid, those parts that are valid are severed from the invalid part and the severed parts continue in force. This bill provides that if any part of the act resulting from enactment of the bill ~~is~~ found by a court to be invalid, then all ^{of those} parts of the act are void.

relating to reporting of mass media activities, reporting of proposed disbursements and obligations by committees and individuals acting independently of candidates and provision of supplemental grants to candidates who are opposed or whose opponents are supported by those proposed disbursements or obligations are

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 5.02 (13) of the statutes is amended to read:

2 5.02 (13) "Political party" or "party" means a state committee registered under
3 s. 11.05 organized exclusively for political purposes under whose name candidates
4 appear on a ballot at any election, and all county, congressional, legislative, local and
5 other affiliated committees authorized to operate under the same name. For
6 purposes of ch. 11, the term does not include a legislative ~~campaign committee~~ or a
7 committee filing an oath under s. 11.06 (7).

8 **SECTION 2.** 5.02 (18) of the statutes is amended to read:

9 5.02 (18) "September primary" means the primary held the 2nd Tuesday in
10 September to nominate candidates to be voted for at the general election, and to
11 determine which candidates for state offices other than district attorney may
12 participate in the ~~Wisconsin election campaign~~ clean government fund.

13 **SECTION 3.** 7.08 (2) (c) and (cm) of the statutes are amended to read:

14 7.08 (2) (c) As soon as possible after the canvass of the spring and September
15 primary votes, but no later than the first Tuesday in March and the 4th Tuesday in
16 September, transmit to the state treasurer a certified list of all eligible candidates
17 for state office who have filed applications under s. 11.50 (2) and ~~whom~~ who the board
18 determines to be eligible to receive payments from the ~~Wisconsin election campaign~~
19 clean government fund. The board shall also transmit a similar list of candidates
20 who the board determines to be eligible to receive a grant under s. 11.50 (9) (b) or (ba)
21 within 3 days after any candidate qualifies to receive such a grant. Each list shall

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1 contain each candidate's name, the mailing address indicated upon the candidate's
2 registration form, the office for which the individual is a candidate and the party or
3 principle which he or she represents, if any.

4 (cm) As soon as possible after the canvass of a special primary, or the date that
5 the primary would be held, if required, transmit to the state treasurer a certified list
6 of all eligible candidates for state office who have filed applications under s. 11.50 (2)
7 and ~~whom~~ who the board determines to be eligible to receive a grant from the
8 ~~Wisconsin election campaign~~ clean government fund prior to the election. The board
9 shall also transmit a similar list of candidates, if any, who have filed applications
10 under s. 11.50 (2) and ~~whom~~ who the board determines to be eligible to receive a grant
11 under s. 11.50 (1) (a) 2. after the special election. ~~The or a grant under s. 11.50 (9)~~
12 (b) or (ba) within 3 days after any candidate qualifies to receive such a grant. Each
13 list shall contain each candidate's name, the mailing address indicated upon the
14 candidate's registration form, the office for which the individual is a candidate and
15 the party or principle which he or she represents, if any.

16 **SECTION 4.** 8.35 (4) (b) of the statutes is amended to read:

17 8.35 (4) (b) Notwithstanding par. (a), any unspent and unencumbered moneys
18 received by a candidate from the ~~Wisconsin election campaign~~ clean government
19 fund shall be immediately transferred to any candidate who is appointed to replace
20 such candidate, upon filing of a proper application therefor under s. 11.50 (2). If there
21 is no candidate appointed or if no proper application is filed within 7 days of the date
22 on which the vacancy occurs, such moneys shall revert to the state as provided in s.
23 11.50 (8).

24 **SECTION 5.** 10.02 (3) (b) 2m. of the statutes is amended to read:

BILL

1 10.02 (3) (b) 2m. At the September primary, the elector shall select the party
2 ballot of his or her choice or the ballot containing the names of the independent
3 candidates for state office, and make a cross [x] in the square at the right of or
4 depress the lever or button next to the candidate's name for each office for whom the
5 elector intends to vote or insert or write in the name of the elector's choice for a party
6 candidate, if any. In order to qualify for participation in the ~~Wisconsin election~~[✓]
7 ~~campaign~~ clean government fund, a candidate for state office at the September
8 primary, other than a candidate for district attorney, must receive at least 6% of all
9 votes cast on all ballots for the office for which he or she is a candidate, in addition
10 to other requirements.

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13-10
11 ~~SECTION 6. 11.01 (5m) of the statutes is amended to read:~~

12 ~~11.01 (5m) "Conduit" means an individual who or an organization a committee~~
13 ~~which receives a contribution of money and transfers the contribution to another~~
14 ~~individual or organization committee without exercising discretion as to the amount~~
15 ~~which is transferred and the individual to whom or organization committee to which~~
16 ~~the transfer is made.~~

17 SECTION 7. 11.01 (12s) of the statutes is repealed.

18 ~~SECTION 8. 11.01 (16) (a) 3. of the statutes is created to read:~~

19 ~~11.01 (16) (a) 3. A communication that is made by means of one or more~~
20 ~~communications media, other than a communication that is exempt from reporting~~
21 ~~under s. 11.29, that is made during the period beginning on the 60th day preceding~~
22 ~~an election and ending on the date of that election and that includes a reference to~~
23 ~~a candidate whose name is certified under s. 7.08 (2) (a) or 8.50 (1) (d) to appear on~~
24 ~~the ballot at that election, an office to be filled at that election or a political party.~~

25 SECTION 9. 11.05 (3) (c) of the statutes is amended to read:

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SECTION 9

1 11.05 (3) (c) In the case of a committee, a statement as to whether the
 2 committee is a personal campaign committee, a political party committee, a
 3 legislative campaign committee, a support committee or a special interest
 4 committee.

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5 ~~SECTION 10. 11.05 (3) (d) of the statutes is created to read:~~
 6 ~~11.05 (3) (d) An indication of whether the proposed registrant is a conduit.~~

7 **SECTION 11.** 11.05 (3) (o) of the statutes is repealed.

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RWS
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8 ~~SECTION 12. 11.05 (9) (b) of the statutes is amended to read:~~

9 ~~11.05 (9) (b) An individual who or a committee or group which receives a
 10 contribution of money and transfers the contribution to another individual,
 11 committee or group while acting as a conduit is not subject to registration under this
 12 section unless the individual, committee or group transfers the contribution to a
 13 candidate or a personal campaign, legislative campaign, political party or support
 14 committee.~~

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15 **SECTION 13.** 11.06 (2) of the statutes is amended to read:

16 11.06 (2) DISCLOSURE OF CERTAIN INDIRECT DISBURSEMENTS. Notwithstanding
 17 sub. (1), if a disbursement is made or obligation incurred by an individual other than
 18 a candidate or by a committee or group which is not primarily organized for political
 19 purposes, and the disbursement does not constitute a contribution to any candidate
 20 or other individual, committee or group, the disbursement or obligation is required
 21 to be reported only if the purpose is to expressly advocate the election or defeat of a
 22 clearly identified candidate or the adoption or rejection of a referendum or if the
 23 disbursement is made or the obligation incurred for ^{is} ~~the purpose of making a~~ ~~purpose~~ ~~specified in s. 11.05~~

24 ~~(16) (14)~~ ^{11.05 (14)} The exemption provided by this subsection shall in no case be construed

Communication

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1 to apply to a political party, ~~legislative campaign~~, personal campaign or support
2 committee.

3 **SECTION 14.** 11.06 (7m) (a) of the statutes is amended to read:

4 11.06 (7m) (a) If a committee which was registered under s. 11.05 as a political
5 party committee ~~or legislative campaign committee~~ supporting candidates of a
6 political party files an oath under sub. (7) affirming that it does not act in cooperation
7 or consultation with any candidate who is nominated to appear on the party ballot
8 of the party at a general or special election, that the committee does not act in concert
9 with, or at the request or suggestion of, such a candidate, that the committee does
10 not act in cooperation or consultation with such a candidate or agent or authorized
11 committee of such a candidate who benefits from a disbursement made in opposition
12 to another candidate, and that the committee does not act in concert with, or at the
13 request or suggestion of, such a candidate or agent or authorized committee of such
14 a candidate who benefits from a disbursement made in opposition to another
15 candidate, the committee filing the oath may not make any contributions in support
16 of any candidate of the party at the general or special election or in opposition to any
17 such candidate's opponents exceeding the amounts specified in s. 11.26 (2), except as
18 authorized in par. (c).

19 **SECTION 15.** 11.06 (7m) (c) of the statutes is amended to read:

20 11.06 (7m) (c) A committee filing an oath under sub. (7) which desires to change
21 its status to a political party committee ~~or legislative campaign committee~~ may do
22 so as of December 31 of any even-numbered year. Section 11.26 does not apply to
23 contributions received by such a committee prior to the date of the change. Such a
24 committee may change its status at other times only by filing a termination

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1 statement under s. 11.19(1) and reregistering as a newly organized committee under
2 s. 11.05.

Handwritten notes: A checkmark and the text "ZWS (16-2)" are written in the left margin, with a line pointing to the text on line 2.

3 **SECTION 16.** 11.09 (3) of the statutes is amended to read:

4 11.09 (3) Each registrant whose filing officer is the board, who or which makes
5 disbursements in connection with elections for offices which serve or referenda
6 which affect only one county or portion thereof, except a candidate, personal
7 campaign committee, political party committee or other committee making
8 disbursements in support of or in opposition to a candidate for state senator,
9 representative to the assembly, court of appeals judge or circuit judge, shall file a
10 duplicate original of each financial report filed with the board with the county clerk
11 or board of election commissioners of the county in which the elections in which the
12 registrant participates are held. Such reports shall be filed no later than the
13 applicable dates specified under s. 11.20 (2), (2e), (2m) ~~(2n)~~ and (4) for the filing
14 of each report with the board.

15 **SECTION 17.** 11.12 (5) of the statutes is amended to read:

16 11.12 (5) If Except as otherwise required under sub. (7), if any contribution or
17 contributions of \$500 or more cumulatively are received by a candidate for state office
18 or by a committee or individual from a single contributor later than 15 days prior to
19 a primary or election such that it is not included in the preprimary or preelection
20 report submitted under s. 11.20 (3), the treasurer of the committee or the individual
21 receiving the contribution shall within 24 hours of receipt inform the appropriate
22 filing officer of the information required under s. 11.06 (1) in such manner as the
23 board may prescribe. The information shall also be included in the treasurer's or
24 individual's next regular report. For purposes of the reporting requirement under
25 this subsection, only contributions received during the period beginning with the day

BILL

1 after the last date covered on the preprimary or preelection report, and ending with
2 the day before the primary or election need be reported.

3 **SECTION 18.** 11.12 (6) of the statutes is renumbered 11.12 (6) (a) and amended
4 to read:

5 **11.12 (6) (a)** ~~If Except as provided in par (b) if~~ ^{If ← plain text} any disbursement of more than
6 \$20 cumulatively is made to advocate the election or defeat of a clearly identified
7 candidate by an individual or committee later than 15 days prior to a primary or
8 election in which the candidate's name appears on the ballot without cooperation or
9 consultation with a candidate or agent or authorized committee of a candidate who
10 is supported or opposed, and not in concert with or at the request or suggestion of
11 such a candidate, agent or committee, the individual or treasurer of the committee
12 shall, within 24 hours of making the disbursement, inform the appropriate filing
13 officer of the information required under s. 11.06 (1) in such manner as the board may
14 prescribe. ~~The information shall also be included in the next regular report of the~~
15 ~~individual or committee under s. 11.20.~~ For purposes of this subsection paragraph,
16 disbursements cumulate beginning with the day after the last date covered on the
17 preprimary or preelection report and ending with the day before the primary or
18 election. Upon receipt of a report under this subsection paragraph, the filing officer
19 shall, within 24 hours of receipt, mail a copy of the report to all candidates for any
20 office in support of or opposition to one of whom a disbursement identified in the
21 report is made.

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22 ~~**SECTION 19.** 11.12 (6) (b) to (d) of the statutes are created to read:~~

23 **11.12 (6) (b) 1.** ~~If any conduit has accepted or intends to accept any contribution~~
24 ~~to be transferred to a candidate or personal campaign committee of a candidate for~~
25 ~~a state office specified in s. 11.31 (1) (a) to (f) at the general or a special election, or~~

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1 to any such candidate who seeks a nomination for such an office at a primary election,
2 the conduit shall report to the board at the times specified in s. 11.20 (2s), in such
3 manner as the board may prescribe, the name of each candidate or personal
4 campaign committee to whom the conduit intends to transfer one or more
5 contributions during the 21-day period following the date on which the report is due
6 to be filed and the amount to be transferred to that candidate or committee.

7 2. A conduit who or which is required to file reports under this paragraph shall
8 also report to the board, at the times specified in s. 11.20 (2t), in such manner as the
9 board may prescribe, the name of each candidate or personal campaign committee
10 to whom the conduit transferred one or more contributions during the 21-day period
11 ending on each date specified in s. 11.20 (2t) and the date and amount of that transfer.

12 (c) 1. If any committee identified under s. 11.05 (3) (c), other than a conduit,
13 intends to receive any contribution, make any disbursement or incur any obligation
14 to make a disbursement for the purpose of advocating the election or defeat of a
15 clearly identified candidate for a state office specified in s. 11.31 (1) (a) to (f) at the
16 general or a special election, or any such candidate who seeks a nomination for such
17 an office at a primary election, without cooperation or consultation with a candidate
18 or agent or authorized committee of a candidate who is supported or whose opponent
19 is opposed, and not in concert with or at the request or suggestion of such a candidate,
20 agent or committee, the committee shall report to the board at the times specified in
21 s. 11.20 (2s), in such manner as the board may prescribe, the name of each candidate
22 who is supported or whose opponent is opposed and the total amount of contributions
23 to be received, disbursements to be made and obligations to be incurred for such a
24 purpose in support or opposition to that candidate during the 21-day period
25 following the date on which the report is due to be filed.

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1 2. A committee which is required to file reports under this paragraph shall also
2 report to the board, at the times specified in s. 11.20 (2t), in such manner as the board
3 may prescribe, the amount and date of each contribution received, disbursement
4 made or obligation incurred for the purpose of advocating the election or defeat of a
5 candidate specified in this paragraph in the manner specified in this paragraph, and
6 the name of the candidate in support of or in opposition to whom the contribution was
7 received, disbursement made or obligation incurred, during the 21-day period
8 ending on each date specified in s. 11.20 (2t).

9 3. A committee which files a report under this paragraph concerning a
10 disbursement is not required to file a report pertaining to the same disbursement
11 under par. (a).

12 (d) All information reported by a registrant under this subsection shall also be
13 included in the next regular report of the registrant under s. 11.20.

14 **SECTION 20.** 11.12 (7) of the statutes is created to read:

15 11.12 (7) (a) Except as provided in par. (c), if a candidate at the general or a
16 special election for a state office specified in s. 11.31 (1) (a) to (f) does not accept a
17 grant under s. 11.50, that candidate or the candidate's personal campaign committee
18 shall report to the board the information specified in s. 11.06 (1) pertaining to all
19 contributions received no later than 24 hours after receipt of any contribution, in
20 such manner as the board may prescribe, if the candidate or personal campaign
21 committee receives, during the campaign of that candidate, as defined in s. 11.26
22 (17), or if the candidate has an opponent whose name is certified to appear on the
23 ballot as a candidate for the party nomination of his or her party in a primary election
24 in that campaign, during the period beginning on the day after the date of the

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1 primary election and ending on the date of the election, total contributions that equal
2 more than the following amount or value, as adjusted under par. (d):

3 1. For candidates for the offices of governor and lieutenant governor jointly,
4 \$330,000 from all political party committees or \$1,670,000 from all individuals.

5 2. For a candidate for the office of attorney general, \$65,000 from all political
6 party committees or \$200,000 from all individuals.

7 3. For a candidate for the office of secretary of state or state treasurer, \$33,000
8 from all political party committees or \$167,000 from all individuals.

9 4. For a candidate for the office of justice or state superintendent, \$100,000
10 from all individuals.

11 5. For a candidate for the office of state senator, \$25,000 from all political party
12 committees or \$125,000 from all individuals.

13 6. For a candidate for the office of representative to the assembly, \$12,500 from
14 all political party committees or \$62,500 from all individuals.

15 (b) The first report filed by a candidate or personal campaign committee under
16 par. (a) during any campaign shall include the information required under par. (a)
17 for all contributions received since the closing date for the preceding report filed by
18 that candidate or committee as provided in s. 11.20 (8).

19 (c) For purposes of computing the applicable amount under par. (a), if one of the
20 candidates of a political party for the office of governor or lieutenant governor has
21 an opponent whose name is certified to appear on the ballot as a candidate for the
22 party nomination of his or her party in the September primary election, the
23 contributions received on or before the date of the primary election by the candidate
24 who has an opponent in that election shall be excluded.

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1 (d) 1. In this paragraph, “consumer price index” means the average of the
2 consumer price index over each 12-month period, all items, U.S. city average, as
3 determined by the bureau of labor statistics of the federal department of labor.

4 2. The dollar amounts of the total contributions under par. (a) shall be subject
5 to a biennial adjustment to be determined by rule of the board in accordance with this
6 subdivision. To determine the adjustment, the board shall calculate the percentage
7 difference between the consumer price index for the 12-month period ending on
8 December 31 of each odd-numbered year and the consumer price index for the base
9 period, calendar year 2001. For each biennium, the board shall multiply the amount
10 of each contribution amount under par. (a) by the percentage difference in the
11 consumer price indices. The board shall adjust each amount to substitute that result
12 for the existing amount to the extent required to reflect any difference, rounded to
13 the nearest multiple of \$25. The amount so determined shall then be in effect until
14 a subsequent rule is promulgated under this subdivision. Notwithstanding s. 227.24
15 (1) (a), (2) (b) and (3), determinations under this subdivision may be promulgated as
16 an emergency rule under s. 227.24 without providing evidence that the emergency
17 rule is necessary for the public peace, health, safety or welfare and without a finding
18 of emergency.

19 **SECTION 21.** 11.16 (5) of the statutes is amended to read:

20 11.16 (5) ESCROW AGREEMENTS. Any personal campaign committee, or political
21 party committee ~~or legislative campaign committee~~ may, pursuant to a written
22 escrow agreement with more than one candidate, solicit contributions for and
23 conduct a joint fund raising effort or program on behalf of more than one named
24 candidate. The agreement shall specify the percentage of the proceeds to be
25 distributed to each candidate by the committee conducting the effort or program.

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1 The committee shall include this information in all solicitations for the effort or
2 program. All contributions received and disbursements made by the committee in
3 connection with the effort or program shall be received and disbursed through a
4 separate depository account under s. 11.14 (1) that is identified in the agreement.
5 For purposes of s. 11.06 (1), the committee conducting the effort or program shall
6 prepare a schedule in the form prescribed by the board supplying all required
7 information under s. 11.06 (1) and items qualifying for exclusion under s. 11.31 (6)
8 for the effort or program, and shall transmit a copy of the schedule to each candidate
9 who receives any of the proceeds within the period prescribed in s. 11.06 (4) (c).

10 SECTION 22. 11.20 (2e) of the statutes is created to read:

11 11.20 (2e) Postelection reports under s. 11.06 (1) with respect to an election for
12 a state office specified in s. 11.31 (1) (a) to (f) shall be received by the board no earlier
13 than 4 days after and no later than 10 days after each general election at which that
14 office is filled.

15 SECTION 23. 11.20 (2m) of the statutes is amended to read:

16 11.20 (2m) Election reports under s. 11.12 with respect to a special election for
17 an office specified in s. 11.31 (1) (a) to (f) shall be received by the board no earlier than
18 4 days and no later than 10 days after that election. Election reports under s. 11.12
19 with respect to any other special election shall be received by the appropriate filing
20 officer no earlier than 23 days and no later than 30 days after each that special
21 election, unless a continuing report is required to be filed under sub. (4) on or before
22 the 30th day after the special election.

23 SECTION 24. 11.20 (2s) of the statutes is created to read:

24 ~~11.20 (2s) A registrant who or which is required to file reports under s. 11.12~~
25 ~~(6) (b) 1. or (c) 1. with respect to a candidate at the general election shall file the~~

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1 reports on the 63rd, 42nd and 21st day prior to that election. A registrant who is
2 required to file reports under s. 11.12 (6) (b) 1. or (c) 1. with respect to a special
3 election shall file a report on the 21st day prior to that election.

4 **SECTION 25.** 11.20 (2t) of the statutes is created to read:

5 11.20 (2t) A registrant who or which is required to file reports under s. 11.12
6 (6) (b) 2. or (c) 2. with respect to a candidate at the general election shall file the
7 reports no later than the 39th and 18th days prior to that election. A registrant who
8 or which is required to file reports under s. 11.12 (6) (b) 2. or (c) 2. with respect to a
9 candidate at a special election shall file the reports no later than the 18th day prior
10 to that election.

11 **SECTION 26.** 11.20 (3) (d) of the statutes is amended to read:

12 11.20 (3) (d) A registered committee or individual other than a candidate or
13 personal campaign committee making or accepting contributions, making
14 disbursements or incurring obligations in support of or in opposition to one or more
15 candidates for office at an election, or supporting or opposing other committees or
16 individuals who are engaging in such activities, shall file a preelection report. A
17 registered committee or individual other than a candidate or personal campaign
18 committee making or accepting contributions, making disbursements or incurring
19 obligations in support of or in opposition to one or more candidates for an office
20 specified in s. 11.31 (1) (a) to (f) at the general election or a special election, or
21 supporting or opposing other committees or individuals who are engaging in such
22 activities, shall file a postelection report.

23 **SECTION 27.** 11.20 (3) (g) of the statutes is amended to read:

24 11.20 (3) (g) A contribution, disbursement or obligation in support of or in
25 opposition to a candidate at an election which is made, accepted or incurred during

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1 the period covered by the preelection report, or by a postelection report following the
2 general election or a special election, is considered to be made, accepted or incurred
3 in support of or in opposition to that candidate at the election, regardless of whether
4 the candidate is opposed at the election.

5 **SECTION 28.** 11.20 (8) (intro.) of the statutes is amended to read:

6 11.20 (8) (intro.) Reports filed under subs. (2), (2e), (2m), ~~(2n), (2o)~~ (4) and (4m)
7 shall include all contributions received and transactions made as of the end of:

8 ~~**SECTION 29.** 11.20 (8) (ak) and (al) of the statutes are created to read:~~

9 11.20 (8) (ak) The day on which the report is due in the case of the report
10 required under s. 11.12 (6) (b) 1. or (c) 1.

11 (al) The 3rd day prior to the date on which the report is due in the case of the
12 report required under s. 11.12 (6) (b) 2. or (c) 2.

13 **SECTION 30.** 11.20 (8) (am) of the statutes is created to read:

14 11.20 (8) (am) The 3rd day after the election in the case of the postelection
15 report that follows the general election or a special election for an office specified in
16 s. 11.31 (1) (a) to (f).

17 **SECTION 31.** 11.20 (8) (an) of the statutes is created to read:

18 11.20 (8) (an) The 22nd day after the election in the case of a postelection report
19 that follows a special election for an office other than an office specified in s. 11.31
20 (1) (a) to (f).

21 **SECTION 32.** 11.20 (12) of the statutes is amended to read:

22 11.20 (12) If a candidate is unopposed in a primary or election, the obligation
23 to file the reports required by this chapter does not cease. Except as provided in ss.
24 11.05 (2r) and 11.19 (2), a registrant who makes or receives no contributions, makes

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1 no disbursements or incurs no obligations shall so report on the applicable dates
2 designated in subs. (2), (2e), (2m) ~~and~~ and (4).

3 **SECTION 33.** 11.21 (15) of the statutes is amended to read:

4 11.21 (15) Inform each candidate who files an application to become eligible to
5 receive a grant from the Wisconsin ~~election campaign~~ clean government fund of the
6 dollar amount of the applicable disbursement limitation under s. 11.31 (1), adjusted
7 as provided in s. 11.31 (9), which applies to the office for which such person is a
8 candidate. Failure to receive the notice required by this subsection does not
9 constitute a defense to a violation of s. 11.27 (1) or 11.31.

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10 **SECTION 34.** 11.24 (1t) of the statutes is created to read:

11 11.24 (1t) No candidate for a state office specified in s. 11.31 (1) (a) to (f) or
12 personal campaign committee of such a candidate at any election other than a
13 primary election may receive and accept any contribution during the period
14 beginning on the 10th day preceding that election and ending on the date of that
15 election.

16 **SECTION 35.** 11.24 (1w) of the statutes is created to read:

17 11.24 (1w) (a) No candidate or personal campaign committee of a candidate
18 who accepts a grant under s. 11.50 may accept any contribution from a ^{political party committee or} committee
19 identified under s. 11.05 (3) (c) as a special interest committee.

20 (b) No ^{political party committee or} committee identified under s. 11.05 (3) (c) as a special interest committee
21 may intentionally make any contribution to a candidate or personal campaign
22 committee of a candidate who has qualified to receive a grant under s. 11.50.

23 **SECTION 36.** 11.26 (1) (intro.) of the statutes is amended to read:

24 11.26 (1) (intro.) No Except as authorized in sub. (10), no individual may make
25 any contribution or contributions to a candidate for election or nomination to any of

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1 the following offices and to any individual or committee under s. 11.06 (7) acting
2 solely in support of such a candidate or solely in opposition to the candidate's
3 opponent to the extent of more than a total of the amounts specified per candidate:

4 **SECTION 37. 11.26** (1m) of the statutes is created to read:

5 **11.26 (1m) (a)** ~~Except as provided in par. (b), no individual who is a candidate~~
6 for state office and who files a sworn statement and application to receive a grant
7 from the clean government fund may receive and accept more than the amount or
8 value of contributions provided in this subsection for the office for which he or she
9 is a candidate during any campaign, or if the individual has an opponent whose name
10 is certified to appear on the ballot as a candidate for the nomination of his or her party
11 in a primary election in that campaign, after the date of the primary election, from
12 all individuals, including contributions from the individual to his or her own
13 campaign. Except as provided in sub. (10a), the amount or value is:

- 14 1. For candidates for the offices of governor and lieutenant governor jointly,
- 15 \$1,000,000.
- 16 2. For a candidate for the office of attorney general, \$200,000.
- 17 3. For a candidate for the office of secretary of state, state treasurer, state
- 18 superintendent or justice, \$100,000.
- 19 4. For a candidate for the office of state senator, \$75,000.
- 20 5. For a candidate for the office of representative to the assembly, \$37,500.

21 (b) For purposes of computing the applicable amount under par. (a), if one of
22 the candidates of a political party for the office of governor or lieutenant governor has
23 an opponent whose name is certified to appear on the ballot as a candidate for the
24 party nomination of his or her party in the September primary election, the

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1 contributions received on or before the date of the primary election by the candidate
2 who has an opponent in the election shall be excluded.

3 SECTION 38. 11.26 (2) (intro.) of the statutes is amended to read:

4 11.26 (2) (intro.) No committee other than a political party committee or
5 legislative campaign committee may make any contribution or contributions to a
6 candidate for election or nomination to any of the following offices and to any
7 individual or committee under s. 11.06 (7) acting solely in support of such a candidate
8 or solely in opposition to the candidate's opponent to the extent of more than a total
9 of the amounts specified per candidate:

10 SECTION 39. 11.26 (2) (a) of the statutes is amended to read:

11 11.26 (2) (a) Candidates for governor, lieutenant governor, secretary of state,
12 state treasurer, attorney general, state superintendent or justice, 4% of the value of
13 the disbursement level specified in the schedule under s. 11.31 (1), as adjusted under
14 s. 11.31 (9).

15 SECTION 40. 11.26 (4) of the statutes is amended to read:

16 11.26 (4) ~~No~~ ^{No} ~~Except as authorized in sub. (10), no~~ individual may make any
17 contribution or contributions to all candidates for state and local offices and to any
18 individuals who or committees which are subject to a registration requirement under
19 s. 11.05, including ~~legislative campaign committees and~~ committees of a political
20 party, to the extent of more than a total of \$10,000 in any calendar year.

21 SECTION 41. 11.26 (8) of the statutes is amended to read:

22 11.26 (8) (a) No political party as defined in s. 5.02 (13) may receive more than
23 a total of \$150,000 in value of its contributions in any biennium from all other
24 committees, excluding contributions from ~~legislative campaign committees and~~
25 transfers between party committees of the party. In this paragraph, a biennium

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1 commences with January 1 of each odd-numbered year and ends with December 31
2 of each even-numbered year.

3 (b) No such political party may receive more than a total of \$6,000 in value of
4 its contributions in any calendar year from any specific committee or its subunits or
5 affiliates, ~~excluding legislative campaign and~~ political party committees.

6 (c) No committee, other than a political party ~~or legislative campaign~~
7 committee, may make any contribution or contributions, directly or indirectly, to a
8 political party under s. 5.02 (13) in a calendar year exceeding a total value of \$6,000.

9 ~~SECTION 42. 11.26 (9) (a) of the statutes is renumbered 11.26 (9) (a) (intro.) and~~
10 amended to read:

11 11.26 (9) (a) (intro.) No Except as provided in par. (aa), no individual who is a
12 candidate for state or local office and who files a sworn statement and application to
13 receive a grant from the clean government fund may receive and accept more than
14 65% of the value of the total disbursement level determined under s. 11.31 the
15 amount or value of contributions provided in this subsection for the office for which
16 he or she is a candidate during any primary and election campaign combined, or if
17 the individual has an opponent whose name is certified to appear on the ballot as a
18 candidate for the nomination of his or her party at a primary election, after the date
19 of the primary election in that campaign, from all committees subject to a filing
20 requirement, including political party and legislative campaign committees. Except
21 as provided in sub. (10a), the amount or value of contributions is:

22 SECTION 43. 11.26 (9) (a) 1. to 5. of the statutes are created to read:

23 11.26 (9) (a) 1. For candidates for the offices of governor and lieutenant
24 governor jointly, \$330,000.

25 2. For a candidate for the office of attorney general, \$65,000.

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1 3. For a candidate for the office of secretary of state, state treasurer, justice or
2 state superintendent, \$33,000.

3 4. For a candidate for the office of state senator, \$25,000.

4 5. For a candidate for the office of representative to the assembly, \$12,500.

5 **SECTION 44.** 11.26 (9) (aa) of the statutes is created to read:

6 11.26 (9) (aa) For purposes of computing the applicable amount under par. (a),
7 if one of the candidates of a political party for the office of governor or lieutenant
8 governor has an opponent whose name is certified to appear on the ballot as a
9 candidate for the party nomination of his or her party in the September primary
10 election, the contributions received on or before the date of the primary election by
11 the candidate who has the opponent in that election shall be excluded.

12 **SECTION 45.** 11.26 (9) (am) of the statutes is created to read:

13 11.26 (9) (am) No individual who is a candidate for state or local office, other
14 than an office specified in par. (a), may receive and accept more than 65% of the value
15 of the total disbursement level determined under s. 11.31 (1), as adjusted under s.
16 11.31 (9), for the office for which he or she is a candidate during any primary and
17 election campaign combined from all committees subject to a filing requirement,
18 ~~including political party committees.~~

19 **SECTION 46.** 11.26 (9) (b) of the statutes is amended to read:

20 11.26 (9) (b) No individual who is a candidate for a state or local office, other
21 than an office specified in par. (a), may receive and accept more than 45% of the value
22 of the total disbursement level determined under s. 11.31 (1), as adjusted under s.
23 11.31 (9), for the office for which he or she is a candidate during any primary and
24 election campaign combined from all committees other than political party ~~and~~
25 ~~legislative campaign~~ committees subject to a filing requirement.

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1 SECTION 47. 11.26 (9) (c) of the statutes is repealed.

2 SECTION 48. 11.26 (10) of the statutes is renumbered 11.26 (10) (a) (intro.) and

3 amended to read:

4 11.26 (10) (a) (intro.) ~~No~~ Except as provided in par. (b), no candidate for state

5 office who files a sworn statement and application to receive a grant from the

6 Wisconsin election campaign clean government fund may make contributions of

7 more than 200% of the ~~amounts~~ ^{restored} amount or value of the limitation specified in ~~sub.~~ ^{restored}

8 (1) ~~of this subsection~~ to the candidate's own campaign from the candidate's personal

9 funds or property or the personal funds or property which are owned jointly or as

10 marital property with the candidate's spouse, unless the board determines that the

11 candidate is not eligible to receive a grant, or the candidate withdraws his or her

12 application under s. 11.50 (2) (h), or s. 11.50 (2) (i) applies. The limitation prescribed

13 in this subsection applies during any campaign, or if a candidate has an opponent

14 whose name is certified to appear on the ballot as a candidate for the nomination of

15 his or her party at a primary election, after the date of the primary election in that

16 campaign. For purposes of this subsection, any contribution received by a candidate

17 or his or her personal campaign committee from a committee which is registered with

18 the federal elections commission as the authorized committee of the candidate under

19 2 USC 432 (e) shall be treated as a contribution made by the candidate to his or her

20 own campaign. The contribution limit of sub. (4) applies to amounts contributed by

21 such a candidate personally to the candidate's own campaign and to other

22 campaigns, except that a candidate may exceed the limitation if authorized under

23 this subsection to contribute more than the amount specified to the candidate's own

24 campaign, up to the amount of the limitation. ~~Except as provided in sub. (10a), the~~

25 limitation is:

Handwritten annotations include: a checkmark above line 1; a scribble above line 2; 'No' with an arrow pointing to 'Except' on line 4; 'plain text' in a circle on line 4; 'restored' written above 'amounts' on line 7; 'restored' written above 'sub.' on line 7; a large box around lines 13-15; 'restored' written above 'of this subsection' on line 8; and a scribble above line 24.

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1 **SECTION 49.** 11.26 (10) (a) 1. to 5. and (b) of the statutes are created to read:

2 11.26 (10) (a) 1. For candidates for the offices of governor and lieutenant

3 governor jointly, \$1,000,000.

4 2. For a candidate for the office of attorney general, \$200,000.

5 3. For a candidate for the office of secretary of state, state treasurer, state

6 superintendent or justice, \$100,000.

7 4. For a candidate for the office of state senator, \$75,000.

8 5. For a candidate for the office of representative to the assembly, \$37,500.

9 (b) For purposes of computing the applicable amount under par. (a), if one of

10 the candidates of a political party for the office of governor or lieutenant governor has

11 an opponent whose name is certified to appear on the ballot as a candidate for the

12 party nomination of his or her party in the September primary election, the

13 contributions received on or before the date of the primary election by the candidate

14 who has an opponent in that election shall be excluded.

15 **SECTION 50.** 11.26 (10a) of the statutes is created to read:

16 11.26 (10a) (a) In this subsection, "consumer price index" means the average

17 of the consumer price index over each 12-month period, all items, U.S. city average,

18 as determined by the bureau of labor statistics of the federal department of labor.

19 (b) The dollar amounts of the limitations under ^{Subs. (1m) and (10)} ~~sub. (1m), (9) and (10)~~

20 shall be subject to a biennial adjustment to be determined by rule of the board in

21 accordance with this subsection. To determine the adjustment, the board shall

22 calculate the percentage difference between the consumer price index for the

23 12-month period ending on December 31 of each odd-numbered year and the

24 consumer price index for the base period, calendar year 2001. For each biennium,

25 the board shall multiply the amount of each limitation under ^{Subs. (1m)} ~~sub. (1m), (9)(a) and~~

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1 (10) by the percentage difference in the consumer price indices. The board shall
2 adjust the amount of each limitation to substitute that result for the existing amount
3 to the extent required to reflect any difference, rounded to the nearest multiple of
4 \$25. The amount so determined shall then be in effect until a subsequent rule is
5 promulgated under this subsection. Notwithstanding s. 227.24 (1) (a), (2) (b) and (3),
6 determinations under this subsection may be promulgated as an emergency rule
7 under s. 227.24 without providing evidence that the emergency rule is necessary for
8 the public peace, health, safety or welfare and without a finding of emergency.

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9 SECTION 51. 11.26 (13) of the statutes is amended to read:
10 11.26 (13) ~~Except as provided in sub. (9),~~ ^{Contributions} contributions received from the
11 Wisconsin election campaign ~~clean government~~ fund are not subject to limitation by
12 this section.

13 SECTION 52. 11.26 (17) (a) of the statutes is amended to read:
14 11.26 (17) (a) For purposes of application of the limitations imposed in subs.
15 (1), (1m), (2), (9) and (10), the "campaign" of a candidate begins and ends at the times
16 specified in this subsection, ~~except as otherwise provided in subs. (1m), (9) and (10).~~

17 SECTION 53. 11.265 of the statutes is repealed.

18 SECTION 54. 11.31 (1) (a) of the statutes is amended to read:

19 11.31 (1) (a) Candidates for governor, ~~\$1,078,200~~ and lieutenant governor
20 jointly, \$2,000,000.

21 SECTION 55. 11.31 (1) (b) of the statutes is repealed.

22 SECTION 56. 11.31 (1) (c) ~~and (d) of the statutes~~ of the statutes is amended to read:

23 11.31 (1) (c) Candidates for attorney general, ~~\$539,000~~ ^{\$600,000} ~~\$100,000~~.
24 (d) Candidates for secretary of state, state treasurer, ~~justice~~ or state
25 superintendent, ~~\$215,625~~ \$200,000.

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1 SECTION 57. 11.31 (1) (e) and (f) of the statutes are amended to read:

2 11.31 (1) (e) Candidates for state senator, ~~\$34,500 total in the primary and~~
3 ~~election, with disbursements not exceeding \$21,575 for either the primary or the~~
4 election ~~\$25,000~~ \$100,000

5 (f) Candidates for representative to the assembly, ~~\$17,250 total in the primary~~
6 ~~and election, with disbursements not exceeding \$10,775 for either the primary or the~~
7 election ~~\$25,000~~ \$50,000

8 SECTION 58. 11.31 (2) of the statutes is amended to read:

9 11.31 (2) LIMITATION IMPOSED. No candidate for state office at a spring or general
10 election who files a sworn statement and application to receive a grant from the
11 ~~Wisconsin election campaign~~ clean government fund may make or authorize total
12 disbursements from the his or her campaign treasury in any campaign to the extent
13 of more than the amount prescribed in sub. (1), adjusted as provided under sub. (9),
14 unless the board determines that the candidate is not eligible to receive a grant, the
15 candidate withdraws his or her application under s. 11.50 (2) (h), or s. ~~11.50 (2) (i)~~ sub.
16 (3p) applies. No candidate for state office at a special election who files a sworn
17 statement and application to receive a grant from the ~~Wisconsin election campaign~~
18 clean government fund may make or authorize total disbursements from the his or
19 her campaign treasury in any campaign to the extent of more than the amount
20 prescribed under sub. (1), adjusted as provided under sub. (9), for the preceding
21 spring or general election for the same office, unless the board determines that the
22 candidate is not eligible to receive a grant, the candidate withdraws his or her
23 application under s. 11.50 (2) (h), or s. ~~11.50 (2) (i)~~ sub. (3p) applies.

24 SECTION 59. 11.31 (2m) of the statutes is repealed.

25 SECTION 60. 11.31 (3) of the statutes is repealed.

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1 **SECTION 61.** 11.31 (3m) of the statutes is repealed.

2 **SECTION 62.** 11.31 (3p) of the statutes is created to read:

3 **11.31 (3p) CANDIDATES RECEIVING ADDITIONAL GRANTS; EXCEPTION.** If a candidate
4 receives a grant under s. 11.50 (9) (b) ~~or (b)~~ ^{or (ba)} the disbursement limitation of that
5 candidate for the campaign in which the grant is received is increased by the amount
6 of that grant.

7 **SECTION 63.** 11.31 (4) of the statutes is repealed.

8 ~~**SECTION 64.** 11.31 (7) (a) of the statutes is amended to read:~~

9 ~~11.31 (7) (a) For purposes of this section, except as provided in par. (e), the
10 “campaign” of a candidate extends from July 1 preceding the date on which the spring
11 primary or election occurs or January 1 preceding the date on which the September
12 primary or general election occurs for the office which the candidate seeks, or from
13 the date of the candidate’s public announcement, whichever is earlier, through the
14 last day of the month following the month in which the election or primary is held
15 for the office which the candidate seeks, except that if a candidate for an office
16 specified in s. 11.31 (1) (a) to (f) has an opponent whose name is certified to appear
17 on the ballot as a candidate for the nomination of his or her party at a primary
18 election, the campaign of that candidate extends from the day after the date of the
19 primary election through the last day of the month following the month in which the
20 election is held for the office which the candidate seeks.~~

21 **SECTION 65.** 11.31 (7) (e) of the statutes is created to read:

22 11.31 (7) (e) For purposes of computing the applicable amount under par. (a),
23 if one of the candidates of a political party for the office of governor or lieutenant
24 governor has an opponent whose name is certified to appear on the ballot as a
25 candidate for the party nomination of his or her party in the September primary

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1 election, the disbursements made or obligated to be made on or before the date of the
2 primary election by the candidate who has an opponent shall be excluded.

3 **SECTION 66.** 11.31 (9) of the statutes is created to read:

4 **11.31 (9) ADJUSTMENT OF DISBURSEMENT LEVELS.** (a) In this subsection,
5 "consumer price index" means the average of the consumer price index over each
6 12-month period, all items, U.S. city average, as determined by the bureau of labor
7 statistics of the federal department of labor.

8 (b) The dollar amounts of all disbursement levels specified in sub. (1) shall be
9 subject to a biennial adjustment to be determined by rule of the board in accordance
10 with this subsection. To determine the adjustment, the board shall calculate the
11 percentage difference between the consumer price index for the 12-month period
12 ending on December 31 of each odd-numbered year and the consumer price index for
13 the base period, calendar year 2001. For each biennium, the board shall multiply
14 that result by the percentage difference in the consumer price indices. The board
15 shall adjust the disbursement levels specified under sub. (1) to substitute that result
16 for the existing levels to the extent required to reflect any difference, rounded to the
17 nearest multiple of \$25 in the case of amounts of \$1 or more, which amounts shall
18 be in effect until a subsequent rule is promulgated under this subsection.
19 Notwithstanding s. 227.24 (1) (a), (2) (b) and (3), determinations under this
20 subsection may be promulgated as an emergency rule under s. 227.24 without
21 providing evidence that the emergency rule is necessary for the public peace, health,
22 safety or welfare, and without a finding of emergency.

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23 **SECTION 67.** 11.50 (title) of the statutes is amended to read:

24 **11.50 (title) Wisconsin election campaign Clean government fund.**

25 **SECTION 68.** 11.50 (1) (b) of the statutes is amended to read:

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1 11.50 (1) (b) "Fund" means the ~~Wisconsin election campaign~~ clean government
2 fund.

3 **SECTION 69.** 11.50 (2) (a) of the statutes is amended to read:

4 11.50 (2) (a) Any individual who desires to qualify as an eligible candidate may
5 file an application with the board requesting approval to participate in the fund. The
6 application shall be filed no later than the applicable deadline for filing nomination
7 papers under s. 8.10 (2) (a), 8.15 (1), 8.20 (8) (a) or 8.50 (3) (a), *no later than 4:30 p.m.*
8 on the 7th day after the primary or date on which the primary would be held if
9 required in the case of write-in candidates, or no later than 4:30 p.m. on the 7th day
10 after appointment in the case of candidates appointed to fill vacancies. The
11 application shall contain a sworn statement that the candidate and his or her
12 authorized agents have complied with the contribution limitations prescribed in s.
13 11.26 and the disbursement limitations prescribed under s. 11.31 (1), as adjusted
14 under s. 11.31 (9), at all times to which such limitations have applied to his or her
15 candidacy and will continue to comply with the limitations at all times to which the
16 limitations apply to his or her candidacy for the office in contest, unless the board
17 determines that the candidate is not eligible to receive a grant, the candidate
18 withdraws his or her application under par. (h), or ~~par. (i)~~ s. 11.31 (3p) applies.

19 **SECTION 70.** 11.50 (2) (b) (intro.) of the statutes is amended to read:

20 11.50 (2) (b) (intro.) ~~The~~ Except as provided in par. (bm), the board shall
21 approve the application of an eligible candidate for participation ~~if~~ if the candidate meets the
following requirements

22 **SECTION 71.** 11.50 (2) (b) 5. of the statutes is renumbered 11.50 (2) (b) 5. (intro.)
23 and amended to read:

24 11.50 (2) (b) 5. (intro.) The financial reports filed by or on behalf of the
25 candidate as of the date of the spring or September primary, or the date that the

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1 special primary is or would be held, if required, indicate that the candidate has
 2 received at least the amount provided in this subdivision, from contributions of
 3 money, other than loans, made by individuals who are residents of this state ~~who~~
 4 ~~than contributions received through conduit~~, which have been received during the
 5 period ending on the date of the spring primary and July 1 preceding such date in
 6 the case of candidates at the spring election, or the date of the September primary
 7 and January 1 preceding such date in the case of candidates at the general election,
 8 or the date that a special primary will or would be held, if required, and 90 days
 9 preceding such date or the date a special election is ordered, whichever is earlier, in
 10 the case of special election candidates, which contributions are in the aggregate
 11 amount of \$100 or less, and which are fully identified and itemized as to the exact
 12 source thereof. ~~A contribution received from a conduit which is identified by the~~
 13 ~~conduit as originating from an individual shall be considered a contribution made by~~
 14 ~~the individual.~~ In the case of a candidate for legislative office, the contributions may
 15 only be received from individuals who are residents of the district in which the
 16 candidate seeks office. Only the first \$100 of an aggregate contribution of more than
 17 \$100 may be counted toward the required percentage. ~~For a candidate at the spring~~
 18 ~~or general election for an office identified in s. 11.26 (1) (a) or a candidate at a special~~
 19 ~~election, the required amount to qualify for a grant is 5% of the candidate's~~
 20 ~~authorized disbursement limitation under s. 11.31. For any other candidate at the~~
 21 ~~general election, the required amount to qualify for a grant is 10% of the candidate's~~
 22 ~~authorized disbursement limitation under s. 11.31. Except as provided in sub. (9a),~~
 23 the amount of contributions required under this subdivision is:

24 ~~SECTION 72. 11.50 (2) (b) 5. a. to e. of the statutes are created to read:~~

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- 1 ~~11.50 (2) (b) 5. a. For candidates for the offices of governor and lieutenant~~
2 ~~governor jointly, \$80,100.~~
- 3 ~~b. For a candidate for the office of attorney general, \$16,200.~~
- 4 ~~c. For a candidate for the office of secretary of state, state treasurer, justice or~~
5 ~~state superintendent, \$8,040.~~
- 6 ~~d. For a candidate for the office of state senator, \$6,000.~~
- 7 ~~e. For a candidate for the office of representative to the assembly, \$3,000.~~

8 **SECTION 73.** 11.50 (2) (bm) of the statutes is created to read:

9 11.50 (2) (bm) The board shall not approve the application of an eligible
10 candidate for the office of governor or lieutenant governor of the same political party
11 unless both candidates qualify to receive a grant under this subsection.

12 **SECTION 74.** 11.50 (2) (g) of the statutes is amended to read:

13 11.50 (2) (g) A candidate who voluntarily files an application to receive a grant
14 in accordance with this subsection accepts and agrees to comply with the
15 contribution limitations prescribed in s. 11.26 and the disbursement limitations
16 imposed under s. 11.31 (2), as adjusted under s. 11.31 (9) as binding upon himself or
17 herself and his or her agents during the campaign as defined in s. 11.31 (7), as a
18 precondition to receipt of a grant under this section, unless the board determines
19 that the candidate is not eligible to receive a grant, the candidate withdraws the
20 application under par. (h), or ~~par. (i)~~ s. 11.31 (3p) applies.

21 **SECTION 75.** 11.50 (2) (i) of the statutes is repealed.

22 **SECTION 76.** 11.50 (3) of the statutes is repealed.

23 **SECTION 77.** 11.50 (4) of the statutes is repealed and recreated to read:

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1 11.50 (4) AMOUNT OF GRANTS. Except as provided in sub. (9) (b) and (ba), each
2 eligible candidate for the same office who qualifies for grant under this section shall
3 receive an equal amount.

4 **SECTION 78.** 11.50 (5) of the statutes is amended to read:

5 11.50 (5) TIME OF DISBURSEMENT. The state treasurer shall make the
6 disbursements to the campaign depository account of each eligible candidate under
7 ~~subs. (3) and (4)~~ by the end of the 3rd business day following notice from the board
8 under s. 7.08 (2) (c) or (cm). ~~Eligible candidates for governor and lieutenant governor~~
9 ~~of the same political party may combine accounts if desired, except that the state~~
10 ~~treasurer shall make disbursements for eligible candidates for the office of governor~~
11 ~~and lieutenant governor jointly to the campaign depository account of the candidate~~
12 ~~for governor.~~

13 **SECTION 79.** 11.50 (6) of the statutes is repealed.

14 **SECTION 80.** 11.50 (9) (title) of the statutes is amended to read:

15 11.50 (9) (title) ~~LIMITATION ON~~ AMOUNT OF GRANTS.

16 **SECTION 81.** 11.50 (9) of the statutes is renumbered 11.50 (9) (a) (intro.) and
17 amended to read:

18 11.50 (9) (a) (intro.) ~~The~~ Except as provided in pars. (b) ^{and (ba)} and sub.
19 (9a), the total grant available to an eligible candidate may not exceed that amount
20 which, when added to all other contributions accepted from sources other than
21 individuals, political party committees and legislative campaign committees, is
22 equal to 45% of the disbursement level specified for the applicable office under s.
23 11.31. The board shall scrutinize accounts and reports and records kept under this
24 chapter to assure that applicable limitations under ss. 11.26 (9) and 11.31 are not
25 exceeded and any violation is reported. is:

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1 (am) No candidate or campaign treasurer may accept grants exceeding the
2 amount authorized by this subsection.

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3 **SECTION 82.** 11.50 (9) (a) 1. to 5. of the statutes are created to read:

4 11.50 (9) (a) 1. For candidates for the office of governor and lieutenant governor
5 jointly, \$670,000.

6 2. For a candidate for the office of attorney general, \$135,000.

7 3. For a candidate for the office of secretary of state, state treasurer,
8 superintendent or justice, \$67,000.

9 4. For a candidate for the office of state senator, \$50,000.

10 ~~5. For a candidate for the office of representative to the assembly, \$25,000.~~

11 **SECTION 83.** 11.50 (9) (b) of the statutes is created to read:

12 11.50 (9) (b) If an eligible candidate who accepts a grant is opposed by one or
13 more candidates in a general or special election whose names are certified under s.
14 7.08 (2) (a) or 8.50 (1) (d) to appear on the ballot, and if a committee intends to receive
15 or receives any contribution or contributions that are intended to be used or that are
16 used to oppose the election of the eligible candidate who accepts a grant or to support
17 a certified opponent of that candidate without cooperation or consultation with any
18 certified opposing candidate or such a candidate's agent or authorized committee,
19 and not in concert with, or at the request or suggestion of any certified opposing
20 candidate's agent or authorized committee, then the board shall make an additional
21 grant to the eligible candidate who accepts a grant in an amount equal to the total
22 amount of contributions received for the purpose of advocating the election of the
23 certified opposing candidate or for the purpose of opposing the election of the eligible
24 candidate who accepts the grant, as reported by committees under s. 11.12 (6) (c).

25 **SECTION 84.** 11.50 (9) (ba) of the statutes is created to read:

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1 11.50 (9) (ba) If an eligible candidate who accepts a grant is opposed by one or
 2 more candidates in a general or special election who are required, or whose personal
 3 campaign committees are required, to file a report under s. 11.12 (7) ^{or (8)}, then the board
 4 shall make an additional grant to the eligible candidate who accepts a grant in an
 5 amount equal to the total amount or value of contributions accepted by the opposing
 6 candidate or candidates exceeding the amount specified for the office sought by the
 7 candidate or candidates under s. 11.12 (7) (a) for contributions from ~~political party~~
 8 committees or from all contributors, or if both amounts specified in s. 11.12 (7) (a) are
 9 exceeded, an amount equal to the excess over both amounts specified, ~~as reported by~~
 10 ~~the opposing candidate under s. 11.12 (7) (a).~~

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11 **SECTION 85.** 11.50 (9) (bb) of the statutes is created to read:
 12 11.50 (9) (bb) If any eligible candidate who accepts a grant is opposed by one
 13 or more candidates in a general or special election whose names are certified under
 14 s. 7.08 (2) (a) or 8.50 (1) (d) to appear on the ballot, and if a conduit has accepted or
 15 intends to accept one or more contributions which the conduit has transferred or
 16 intends to transfer to the certified opposing candidate and the contributions are
 17 required to be reported by the conduit under s. 11.12 (6) (b), then the board shall
 18 make an additional grant to the eligible candidate who accepts a grant in an amount
 19 equal to the amount or value of contributions accepted by the opposing candidate or
 20 candidates, as reported by the conduit under s. 11.12 (6) (b).

21 **SECTION 86.** 11.50 (9a) of the statutes is created to read:

22 11.50 (9a) **ADJUSTMENT OF QUALIFYING AND GRANT AMOUNTS.** (a) In this
 23 subsection, "consumer price index" means the average of the consumer price index
 24 over each 12-month period, all items, U.S. city average, as determined by the bureau
 25 of labor statistics of the federal department of labor.

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1 (b) The dollar amounts of all qualifying amounts specified in sub. (2) (b) 5. and
2 all grant amounts specified in sub. (9) shall be subject to a biennial adjustment to be
3 determined by rule of the board in accordance with this subsection. To determine the
4 adjustment, the board shall calculate the percentage difference between the
5 consumer price index for the 12-month period ending on December 31 of each
6 odd-numbered year and the consumer price index for the base period, calendar year
7 2001. For each biennium, the board shall multiply each qualifying amount and grant
8 amount by the percentage difference in the consumer price indices. The board shall
9 adjust each qualifying amount and grant amount to substitute that result for the
10 existing amount to the extent required to reflect any difference, rounded to the
11 nearest multiple of \$25. The amounts so determined shall then be in effect until a
12 subsequent rule is promulgated under this subsection. Notwithstanding s. 227.24
13 (1) (a), (2) (b) and (3), determinations under this subsection may be promulgated as
14 an emergency rule under s. 227.24 without providing evidence that the emergency
15 rule is necessary for the public peace, health, safety or welfare and without a finding
16 of emergency.

17 **SECTION 87.** 11.50 (11) (e) of the statutes is amended to read:

18 11.50 (11) (e) No candidate may expend, authorize the expenditure of or incur
19 any obligation to expend any grant if he or she violates the pledge required under
20 sub. (2) (a) as a precondition to receipt of a grant, except as authorized in sub. (2) (h)
21 or (i).

22 **SECTION 88.** 11.60 (3s) and (3t) of the statutes are created to read:

23 11.60 (3s) Notwithstanding sub. (1), if any candidate or other individual or
24 committee, ~~including a committee~~ accepts or transfers a contribution, makes a
25 disbursement or incurs an obligation to make a disbursement for the purpose of

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1 supporting or opposing a candidate for an office specified in s. 11.31 (1) (a) to (f) or
 2 ~~for a purpose~~ ^{make a communication} specified in s. ~~11.01 (1) (a) to (f)~~ ^{11.05 (14)} (without first registering under s. 11.05
 3 (1), (2) or (2g) to the extent required under s. 11.05 (1), (2) and (2g), or without
 4 reporting the information required under s. 11.12 (6) ~~or (c)~~ ^{(7) or (8)} or 11.20 (3) or
 5 (4) with respect to that contribution, disbursement or obligation, to the extent
 6 required under ss. 11.12 (6) ~~or (c)~~ ^{(7) and (8)} and 11.20 (3) and (4), the candidate
 7 or other individual or committee may be required to forfeit not more than \$500 per
 8 day for each day of continued violation.

9 (3t) Notwithstanding sub. (1), if any candidate or other individual or
 10 committee ~~including a candidate~~ accepts or transfers one or more contributions,
 11 makes one or more disbursements or incurs one or more obligations to make
 12 disbursements for the purpose of supporting or opposing a candidate for an office
 13 specified in s. 11.31 (1) (a) to (f) or ^{to make a communication} ~~for a purpose~~ ^{11.05 (14)} specified in s. ~~11.01 (1) (a) to (f)~~ in an
 14 amount or value that differs from the amount reported by that individual or
 15 committee under s. 11.12 (6) ~~or (c)~~ ^{(7) or (8)} or 11.20 (3) or (4):

16 (a) By more than 5% but not more than 10% cumulatively, the individual or
 17 committee shall forfeit 4 times the amount or value of the difference.

18 (b) By more than 10% ~~but not more than 15%~~ cumulatively, the individual or
 19 committee shall forfeit 6 times the amount or value of the difference.

20 ~~(c) By more than 15% cumulatively, the individual or committee shall forfeit~~
 21 ~~8 times the amount of the difference.~~

22 SECTION 89. 11.61 (1) (a) of the statutes is amended to read:
 23 11.61 (1) (a) ~~Whoever~~ Except as provided in par. (d), whoever intentionally
 24 violates s. 11.05 (1), (2), (2g) or (2r), 11.07 (1) or (5), 11.10 (1), 11.12 (5), 11.23 (6) or

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1 11.24 (1) may be fined not more than \$10,000 or imprisoned not more than 3 years
2 or both.

3 **SECTION 90.** 11.61 (1)(a) of the statutes, as affected by 1997 Wisconsin Act 283,
4 is amended to read:

5 11.61 (1) (a) ~~Whoever~~ Except as provided in par. (d), whoever intentionally
6 violates s. 11.05 (1), (2), (2g) or (2r), 11.07 (1) or (5), 11.10 (1), 11.12 (5), 11.23 (6) or
7 11.24 (1) may be fined not more than \$10,000 or imprisoned for not more than 4 years
8 and 6 months or both.

9 **SECTION 91.** 11.61 (1) (b) of the statutes is amended to read:

10 11.61 (1) (b) ~~Whoever~~ Except as provided in par. (d), whoever intentionally
11 violates s. 11.25, 11.26, 11.27 (1), 11.30 (1) or 11.38 where the intentional violation
12 does not involve a specific figure, or where the intentional violation concerns a figure
13 which exceeds \$100 in amount or value may be fined not more than \$10,000 or
14 imprisoned not more than 3 years or both.

15 **SECTION 92.** 11.61 (1) (b) of the statutes, as affected by 1997 Wisconsin Act 283,
16 is amended to read:

17 11.61 (1) (b) ~~Whoever~~ Except as provided in par. (d), whoever intentionally
18 violates s. 11.25, 11.26, 11.27 (1), 11.30 (1) or 11.38 where the intentional violation
19 does not involve a specific figure, or where the intentional violation concerns a figure
20 which exceeds \$100 in amount or value may be fined not more than \$10,000 or
21 imprisoned for not more than 4 years and 6 months or both.

22 **SECTION 93.** 11.61 (1) (c) of the statutes is amended to read:

23 11.61 (1) (c) ~~Whoever~~ Except as provided in par. (d), whoever intentionally
24 violates any provision of this chapter other than those provided in par. (a) and
25 whoever intentionally violates any provision under par. (b) where the intentional

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1 violation concerns a specific figure which does not exceed \$100 in amount or value
2 may be fined not more than \$1,000 or imprisoned not more than 6 months or both.

3 **SECTION 94.** 11.61 (1) (d) of the statutes is created to read:

4 11.61 (1) (d) Whoever, with intent to conceal or deceive, accepts or transfers a
5 contribution, makes a disbursement or incurs an obligation to make a disbursement
6 for the purpose of supporting or opposing a candidate for an office specified in s. 11.31

7 (1) (a) to (f) or ~~for the purpose~~ ^{to make a communication} specified in s. ~~11.91 (1) (a) to (f)~~ ^{11.05 (14)} without first registering
8 under s. 11.05 (1), (2) or (2g), to the extent required under s. 11.05 (1), (2) and (2g),

9 or without reporting the information required under s. 11.12 (6) ~~(a) or (b)~~ ^{(7) or (8)}
10 11.20 (3) or (4) with respect to that contribution, disbursement or obligation, to the

11 extent required under ss. 11.12 (6) ~~(a) or (b)~~ ^{(7) and (8)} and 11.20 (3) and (4), may be
12 fined not more than \$10,000 or imprisoned for not more than 5 years, or both.

13 ~~**SECTION 95.** 11.62 of the statutes is created to read:~~

14 **11.62 Nullification of election.** (1) If one or more violations that are
15 punishable under s. 11.60 (3t) (c) are of sufficient severity to have affected the result
16 of an election, the board or the district attorney for any county where such a violation
17 occurs, or any candidate who is adversely affected by the result of the election, may
18 commence a civil action to obtain a judgment nullifying the election, vacating the
19 office filled at the election and ordering a special election to be held to fill the office
20 vacated by the judgment.

21 (2) Notwithstanding s. 5.05 (1) (c), if a candidate is a party to an action
22 commenced under this section, the action may not be compromised or settled without
23 consent of the candidate. If an action under this section is commenced by the board
24 or a district attorney and any unsuccessful candidate whose name appeared on the
25 ballot at the election is not a party to the action, the board or district attorney shall

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1 provide at least 30 days' written notice to each such candidate of any intent of the
2 board or district attorney to compromise and settle the action. Notwithstanding s.
3 5.05 (1) (c), during the 30-day period following service of notice, the board or district
4 attorney shall not compromise and settle the action and any candidate upon whom
5 notice is served may intervene in the action. If any such candidate intervenes in the
6 action within the 30-day period following service of notice, the board or district
7 attorney shall not compromise or settle the action. If no nonconsenting candidate
8 who is adversely affected by the result of the election is a party to the action and no
9 such candidate intervenes in the action within the 30-day period following service
10 of notice, the party commencing the action may compromise and settle the action.

11 **SECTION 96.** 14.58 (20) of the statutes is amended to read:

12 14.58 (20) ~~ELECTION CAMPAIGN~~ CLEAN GOVERNMENT FUND. Make disbursements
13 to each candidate certified under s. 7.08 (2) (c) or (cm) by the elections board as
14 eligible to receive moneys from the ~~Wisconsin election campaign~~ clean government
15 fund.

16 **SECTION 97.** 20.510 (1) (q) of the statutes is amended to read:

17 20.510 (1) (q) ~~Wisconsin election campaign~~ Clean government fund. As a
18 continuing appropriation, from the ~~Wisconsin election campaign~~ clean government
19 fund, the moneys amounts determined under s. 11.50 to provide for payments to
20 eligible candidates certified under s. 7.08 (2) (c) and (cm).

21 **SECTION 98.** 20.855 (4) (b) of the statutes is repealed.

22 **SECTION 99.** 20.855 (4) (ba) of the statutes is created to read:

23 20.855 (4) (ba) *Lobbying expenditure tax revenue transfer*. A sum sufficient
24 equal to the amounts determined by the secretary of revenue under s. 77.9973, to be

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1 transferred from the general fund to the clean government fund annually on
2 September 16.

3 **SECTION 100.** 20.855 (4) (bb) of the statutes is created to read:

4 20.855 (4) (bb) *Clean government fund supplement.* A sum sufficient equal to
5 the amounts required to make full payment of grants which candidates qualify to
6 receive from the clean government fund, to be transferred from the general fund to
7 the clean government fund no later than the time required to make payments of
8 grants under s. 11.50 (5).

9 **SECTION 101.** 25.17 (1) (ys) of the statutes is amended to read:

10 25.17 (1) (ys) ~~Wisconsin election campaign~~ Clean government fund (s. 25.42);

11 **SECTION 102.** 25.42 of the statutes is amended to read:

12 **25.42 Wisconsin election campaign Clean government fund.** All moneys
13 appropriated under s. 20.855 (4) (b) ~~(ba) and (bb)~~ together with all moneys reverting
14 to the state under s. 11.50 (8) and all gifts, bequests and devises received under s.
15 11.50 (13) constitute the ~~Wisconsin election campaign~~ clean government fund, to be
16 expended for the purposes of s. 11.50. All moneys in the fund not disbursed by the
17 state treasurer shall continue to accumulate indefinitely.

18 **SECTION 103.** 71.10 (3) of the statutes is repealed.

19 **SECTION 104.** Chapter 77 (title) of the statutes is amended to read:

20 **CHAPTER 77**
21 **TAXATION OF FOREST CROPLANDS;**
22 **REAL ESTATE TRANSFER FEES;**
23 **SALES AND USE TAXES; COUNTY**
24 **AND SPECIAL DISTRICT SALES**
25 **AND USE TAXES; MANAGED FOREST**

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1 **LAND; TEMPORARY RECYCLING**
2 **SURCHARGE; LOCAL FOOD AND**
3 **BEVERAGE TAX; LOCAL RENTAL**
4 **CAR TAX; PREMIER RESORT AREA**
5 **TAXES; STATE RENTAL VEHICLE**
6 **FEE; DRY CLEANING FEES;**
7 **LOBBYING EXPENDITURE TAX**

8 **SECTION 105.** Subchapter XIII of chapter 77 [precedes 77.997] of the statutes
9 is created to read:

10 **CHAPTER 77**

11 **SUBCHAPTER XIII**

12 **LOBBYING EXPENDITURE TAX**

13 **77.997 Definition.** In this subchapter, “lobbying expenditure” has the
14 meaning given under s. 13.62 (10r).

15 **77.9971 Imposition.** A tax is imposed on every person, except an organization
16 described in section 501 (c) (3) of the Internal Revenue Code, that is exempt from
17 federal income taxation under section 501 (a) of the Internal Revenue Code and a
18 governmental unit, as defined in s. 281.65 (2) (am), at the rate of 10% on lobbying
19 expenditures that are reportable to the ethics board under s. 13.68 (1).

20 **77.9972 Administration.** (1) The department of revenue shall levy, enforce
21 and collect the tax under this subchapter.

22 (2) The tax under this subchapter and a completed return prescribed by the
23 department of revenue are due on March 1 and September 1.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3171/1dn
JTK:cmh:ch

June 7, 1999

1. Under this bill, candidates for the office of governor and lieutenant governor are potentially bound by the same disbursement limitation, which applies to the primary and election campaigns combined. Under current law, these candidates may run separately in the primary election and a candidate for one office but not the other office, or the candidates of one party but not the other party, may be opposed in the primary election. You may wish to consider separate treatment of disbursement limitations for those offices in the primary election. See, for example, proposed SECTIONS 64 and 65 of SB-113.

2. Concerning proposed s. 11.05 (14), relating to bogus "issue" advertising, currently, ch. 11, stats., generally requires disclosure of financial activity by individuals and committees seeking to influence the election or defeat of candidates for state or local office [see ss. 11.01 (6), (7), (11) and (16), 11.05 and 11.06, stats.], unless a disbursement is made or obligation incurred by an individual other than a candidate or by a committee which is not organized primarily for political purposes, the disbursement is not a contribution as defined in the law and the disbursement is not made to expressly advocate the election or defeat of a clearly identified candidate [see s. 11.06 (2), stats.]. This language pretty closely tracks the holding of the U.S. Supreme Court in *Buckley v. Valeo, et al.*, 96 S. Ct. 612, 656-664 (1976), which prescribes the boundaries of disclosure that may be constitutionally enforced (except as those requirements affect certain minor parties and independent candidates). This proposal appears to extend beyond the boundaries which the court permitted in 1976. As a result, its enforceability at the current time appears to rest upon a shift by the court in its stance on this issue. In this connection, see also *North Carolina Right to Life Inc. v. Bartlett*, 67 U.S.L.W. 4148 (U.S.C.A., 4th Cir., 1999), in which the court voided North Carolina's attempt to regulate issue advocacy as inconsistent with *Buckley*. I know that the McCain-Feingold language has been looked at by respected constitutional scholars who convincingly argue that it passes constitutional muster; however, current state law is specifically molded to fit within the confines of the *Buckley* decision, whereas this language casts aside that decision and takes the stance that another mold should be acceptable. There is also another issue with this language in that under the Fifth, Sixth and Fourteenth amendments, the state has the burden of proof in prosecutions. To the extent that this provision operates to shift that burden to the defendant under certain circumstances, it may be difficult to enforce.

3. Proposed s. 11.50 (9) (b) and (ba), which increase the public grants payable to certain candidates when independent disbursements are made against them or their

opponents, or when their opponents raise more than a specified level of contributions from certain sources, and proposed s. 11.31 (3p), which increases disbursement limitations by an amount equal to any grant received under proposed s. 11.50 (9) (b) or (ba), may result in an abridgement of the First Amendment rights of the persons making the disbursements or contributions. See *Day v. Holahan*, 34 F.3d 1356 (8th Cir., 1994), in which a Minnesota law that included provisions similar to proposed s. 11.31 (3p) was voided. While this case expressly involved only independent expenditures, since this case and other federal cases hold that the making of a contribution is a protected First Amendment right, the same issue could be raised in the context of contributions. It should be noted that there are there are viable arguments to be made on both sides of this issue, this case is not binding in Wisconsin because it did not arise in the circuit that includes Wisconsin and the U.S. Supreme Court has not yet spoken on this issue.

4. The tax on lobbying expenditures under proposed subch. XIII of ch. 77 is innovative and has not, to my knowledge, been ruled upon by the courts. Because this tax may be viewed as burdening speech, it may be subject to attack. In *Georgia State AFL-CIO v. Georgia Ethics Commission*, C. A. No. 1:94-cv-103-MHS (U.S.D.C., N.D. Ga., 1995), the court invalidated lobbying registration fees that it viewed as excessive under the First and Fourteenth Amendments to the U.S. Constitution. However, this case was never published and was not appealed. Presumably the answer to this type of attack is that this tax is on business activity rather than speech, like reasonable contribution limitations that have been approved, any burden imposed by the tax on the right to lobby is minimal and the alternative of unpaid citizen lobbying activity is not taxed and remains open.

5. I also want to note briefly that a few of the provisions of this draft are innovative, and we do not yet have, to my knowledge, specific guidance from the federal courts concerning the enforceability of provisions of these types. It is well possible that a court may find a rational basis for these provisions that would permit them to be upheld. However, because of the concerns expressed by the U.S. Supreme Court in *Buckley v. Valeo, et al.*, 96 S. Ct. 612 (1976), and certain other cases that attempts to regulate campaign financing activities may, in some instances, impermissibly intrude upon freedom of speech or association, or equal protection guarantees, it is possible that enforceability problems with these provisions may occur. In particular, those provisions concerning which we do not have specific guidance at this time are:

(a) Proposed s. 11.12 (6) (c), which imposes a waiting period of up to 21 days before certain disbursements may be made or obligations to make disbursements may be incurred.

(b) Proposed s. 11.12 (7) and (8), which impose additional reporting requirements upon candidates who decline to accept public grants.

(c) Proposed s. 11.24 (1s), which prohibits certain candidates and their personal campaign committees from accepting contributions from special interest ("political action") committees within 30 days of an election in which the candidates participate.

(d) Proposed s. 11.24 (1t), which prohibits certain candidates and their personal campaign committees from accepting any contributions within 10 days of an election in which the candidates participate.

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

Smith, Irma

From: Wenzel, Bill
Sent: Tuesday, June 08, 1999 1:35 PM
To: Smith, Irma
Subject: LRB 3171

Irma - -

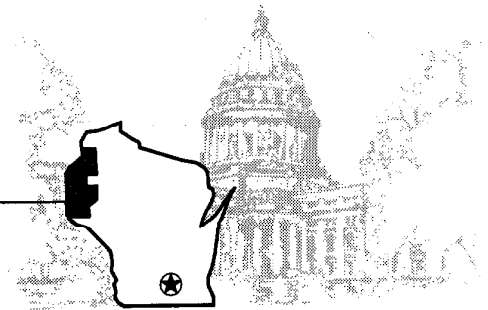
Could you please prepare a bill jacket for LRB 3171/1. We are prepared to introduce this as a Committee Bill and I need to get it to the Senate Chief Clerk's office this afternoon. Sorry for the urgency of the request. When it's done could you have someone bring it over to 319 So.

Thanks,
Bill



Alice Clausing

WISCONSIN STATE SENATOR



MEMORANDUM

To: Jeff Kuesel @ Legislative Reference Bureau

From: Bill Wenzel *BW*

Re: SB 190 Stripes

Date: September 28, 1999

Please find enclosed the stripes for our amendment to SB 190 (LRBa0636/1) together with the Jacket Copy of the original bill (LRB-3171/1). I am returning the *Jacket Copy* because I inadvertently "marked up" that copy. Is it possible to replace that version with a "clean copy"? Thanks.

Done
09-29-99
MB

Mike
I don't know if
it's possible to do
what he's asking.
Please either do it or
if you can't, call him

JK

